

Revision to Part 4 of the Constitution

Head of Service/Contact:	Amardip Healy, Chief Legal Officer
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
Annexes/Appendices (attached):	Annex 1: amended Part 4 Annex 2: New standing order & Section J to Part 5 Annex 3: Motions to Council Request Form

Other available papers (not attached):

Report summary

Proposed changes to Part 4 of the Council's Constitution.

Recommendation (s)

- (1) That the Committee approves the changes to the Part 4 of the Constitution as set out at Annex 1 and 2.**

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 Good Corporate Governance underpins delivering the Council's Key Priorities.

2 Background

- 2.1 A comprehensive review of the current Constitution is currently underway to ensure that it complies with all relevant statutory requirements, and its processes and procedures meet the needs for organisational efficiency and achieve good governance.
- 2.2 The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure business is conducted in an efficient, transparent, and accountable manner. Some of the content of the Constitution is required by law; the remainder is for the Council itself to determine.
- 2.3 The Monitoring Officer has a duty to keep the Constitution under review

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and has delegated authority to amend the Constitution where there has been a change in law, job title, and structure, rearrangement of job responsibilities or for general administrative convenience. All extensive changes to the Constitution, however, must be approved by Full Council.

- 2.4 Work started on Part 3 and on the Protocol for Managing Member/Officer relations (in Part 5), which Council approved at the meeting on the 17 July 2018.
- 2.5 Part 3 of the Constitution deals with the responsibility for functions and were last reviewed in April 2014. It sets out the Council's committee structure, the work and the make-up of its committees, sub committees and advisory panels. It also deals with the scheme of delegation to officers. It was important to clarify the terms of references of the Council committees before proceeding with reviews of other parts of the Constitution.
- 2.6 Part 3 of the Constitution requires changes to its procedure rules to be approved by Standards Committee first. Since most of the changes being proposed are to the procedure rules it was felt best to bring all the proposed changes to Part 4 to the Standards Committee, albeit that the matters Standards Committee must consider is restricted to consideration of the procedure rules.

3 Proposals

- 3.1 Part 4 deals with a number of key areas. There are a number of current work streams affecting some the areas. Some sections of Part 4 have already been reviewed and the changes approved by Strategy and Resources Committee. These are currently awaiting Council approval and adoption. By way of summary, Table 1 below sets out progress to date and proposals for review and amendments:

Table 1

Section	Current Positon	Proposals
A. (a) Council Rules of Procedure	To be amended	As recommended in Annex 1
A (b) Procedure Rules for the Conduct of Committees, sub Committees and Advisory Groups	To be amended	As recommended in Annex 1
B. Access to Information Procedure Rules	No changes proposed	No change

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C. Budget & Policy Framework Procedure Rules	No changes proposed	No change
D. Overview & Scrutiny Procedure Rules	To hold pending expected legislative changes.	Changes to post titles to update in line with new structure only
E. Financial Regulations	To be amended by Strategy & Resources early next year	Changes to post titles to update in line with new structure only
F. Contract Standing Orders	Amended by Strategy & Resources in July 2018	Approved changes to be put to Council for adoption
G. Officer Employment Rules	To be amended	As recommended in Annex 1

- 3.2 The proposed changes to Section A (a) Full Council Procedure Rules and (b) Committee & Advisory Panel Procedure Rules are aimed at updating current practice, addressing anomalies and general updating to reflect new post titles.
- 3.3 Some of the changes include a generic definitions section in Part A for both parts (a) and (b).
- 3.4 One key change in both (a) and (b) has been in the inclusion within the running order for Chairman's statements which is aimed at Policy Committee Chairman to present a statement on current events and issues affecting the area of work of that committee.
- 3.5 Other changes include a process around the use of mobile phones, the ability to film and record meetings. A new standing order has been drafted and a new protocol for inclusion within Part 5, which is attached at **Annex 2**.
- 3.6 For reasons of health and safety, although banners and placards will not be permitted to be brought into meetings, it is good practice to include a procedure rule to this effect.
- 3.7 A guillotine has been set so as to avoid any meeting proceeding past 23.00hrs. This means the procedure rule is now not capable of being suspended.
- 3.8 Changes have also been made to the questions from Members of Council section to provide clear guidance on when and what questions can be asked.

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- 3.9 The section on Motions has also been updated to ensure the process is stated clearly. The time for notifying of a proposed motion has been extended as a report now needs to be written accompanying any motions.
- 3.10 The steps of asking Council to decide if a motion can be debated or referred on to an appropriate committee has been deleted from the process. This step has been mitigated by requiring Council to refer a matter to a Policy Committee after Council has determined a Motion which engages something a Policy Committee could or should consider.
- 3.11 It also includes a new process for the submission of motions which includes a prescribed form to be completed, a copy of which is included in **Annex 3** for information purposes.
- 3.12 Following on from changes to this section, the rules of debate sections has also been reconfigured and clarified. To bring consistency, timings for speeches has been changed. There are now only two sets of timings for all speeches irrespective of speaker – seven minutes for a proposed and five minutes for all other speakers.
- 3.13 To avoid any ambiguity, motions to Council will now be accompanied by a covering report, which will draw specific attention to process and procedures for debate of motions.
- 3.14 In terms of changes to the Committee and Advisory Panels Procedure Rules, again these have been updated in line with good practice and general updating.
- 3.15 Changes have been proposed to the ability of questions from the public to be asked on agenda items. The aim of question sessions is really to address those matters which fall with the terms of reference of a Committee to enable the public to raise issues. It is not normally to allow members of the public to engage in agenda items.
- 3.16 The timing for asking questions has been harmonised so as to ensure the same time limits apply across the board. This has been increased to 10 working days so as to allow enough time in the timetable for replies to be made available at a meeting.
- 3.17 Other changes to accord with changes to the procedure rules have also been made.
- 3.18 Other sectional changes are updating to comply with the law. The section dealing with Overview and Scrutiny has not been reviewed as legislative changes are expected shortly.
- 3.19 One change has been made to address the conflict created by the former CPR 82 rule. The Constitution currently makes a distinction between those members of Audit, Crime & Disorder & Scrutiny Committee who are able to :

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- sit as full members of a Policy Committee, and
- those that can sit as substitutes for Members of a Policy Committee

3.20 At present, CPR 82 provides that if a member is appointing a substitute to sit on a policy committee, that substitute cannot be a member of the Scrutiny Committee. The rule is clear and unambiguous.

3.21 However, in Section D of Part 4, which sets out the Scrutiny Procedure Rules, para 2 sets out who can sit on Audit, Crime & Disorder & Scrutiny Committee and what they can and cannot do. Para 2.1 provides

“All councillors may be members of the Audit, Crime & Disorder but no councillor may be involved in scrutinising a decision in which he/she has been directly involved.”

3.22 This has created a conflict where members can sit on a Policy committee as a decision maker, but cannot as a substitute. This has been addressed by the removal of the words to CPR 82 which prevents a member of Scrutiny substituting for a member on a Policy Committee, but preserving the right for such a member not to scrutinise a decision in which they were involved at a Policy Committee.

3.23 Changes to the Constitution have to be agreed by Council for the Constitution to be amended. It is proposed that changes to Part 4 and the addition to Part 5 be taken to the meeting of Council on the 11 December 2018.

4 Financial and Manpower Implications

4.1 There are no financial implications for the purposes of this report.

4.2 **Chief Finance Officer's comments:** None for the purposes of this report.

5 Legal Implications (including implications for matters relating to equality)

5.1 Section 37 of the Local Government Act 2000 and the guidance issued under it requires the Council to keep the Constitution up to date and regularly review it. There are no specific equality implications from the proposed amendments.

5.2 **Monitoring Officer's comments:** It is important to note that the Local Government Act 2000 requires the Council to have and maintain a Constitution. The process of updating the Constitution will ensure it fulfils its stated purpose, as set out in its Article 1.

6 Sustainability Policy and Community Safety Implications & Partnerships

6.1 There are no implications of the purposes of this report.

7 Risk Assessment, Conclusion and Recommendations

- 7.1 The Council needs a sound Constitution that is kept up-to date and fit for purpose. By adhering to the rules and guidance set out in the Constitution, Officers and Members alike protect themselves from risk of challenge.
- 7.2 The changes to the Constitution are being taken in sections and a further review of the whole document will be undertaken when all parts have been individually reviewed. Accordingly, the recommendations in the body of the report are commended to the Committee.

Ward(s) affected: (All Wards);