

Meeting:	Council
Meeting date:	19 May 2017
Title of report:	Council constitution
Report by:	Chairman, audit and governance committee

Classification

Open

Key decision

This is not an executive decision.

Wards affected

Countywide

Purpose

To agree minor amendments to the constitution adopted by Council in December 2016 and adopt the outstanding rules and codes.

Recommendation(s)

THAT:

- (a) the revised constitution at appendix 1 be adopted and implemented with immediate effect; and**
- (b) authority be delegated to the solicitor to the council to make technical amendments (grammatical, formatting, and consistency) necessary to finalise the revised constitution for publication.**

Alternative options

- 1 To reject the proposed amendments and retain the current constitution unamended: this is not recommended because the amendments have been proposed in order to either:
 - a) Improve clarity;
 - b) Ensure compliance with current legislative requirements; or
 - c) Improve the efficiency and effectiveness of the council's governance arrangements.

- 2 To propose alternative or additional amendments; it is open to Council to agree alternative or additional amendments. However additional time may be required in order for Council to be advised of any legal or risk implications of such a change.

Reasons for recommendations

- 3 The proposed amendments to the constitution reflect the principles agreed by the audit and governance committee and ensure that the council's governance will remain robust, compliant with legislative requirements, and transparent.

Key considerations

- 4 In December 2016 Council approved a revised constitution for implementation with effect from the annual council meeting in May 2017 and agreed arrangements for the completion of the outstanding elements of work which chiefly focussed on elements of the rules and codes within the constitution.
- 5 Audit and governance committee has been delegated the authority to approve revised finance and contract procedure rules. They did so on 10 May, with implementation effective from 19 May 2017.
- 6 The chief executive has delegated authority to approve the employee code of conduct, following consultation with employees and the employment panel. This code is currently being revised and will be in line with the members' code of conduct.
- 7 The remaining elements of the constitution are now recommended to full Council. This work has been undertaken by two member-led working groups reporting to the audit and governance committee:
- the standards working group – which has looked at the code of conduct for members; and
 - the governance improvement working group – which has reviewed the remaining codes and rules, considered further minor amendments proposed to the approved constitution which primarily resolve anomalies, legislative requirements or correct drafting errors, and provided guidance in respect of the training and communications programme to support implementation of the new constitution.
- 8 The working groups have continued to have regard to the design principles for a refreshed constitution which were approved by council in December 2016, and which sought to ensure that:
- a) Members and officers perform effectively in clearly defined functions and roles;
 - b) Member engagement and participation is maximised, including the involvement of all members in the development of key policies;
 - c) Decision making is informed, transparent and efficient; and
 - d) The council welcomes public engagement and makes accountability real.

Standards working group

- 9 Having sought comments from the parish councils, the working group reviewed the existing code, prepared a draft and consulted all Herefordshire Council members and all parish councils within the county (who may choose to adopt the Herefordshire Council code for their own parish council but may also choose to adopt their own

code).; The main changes are:

- a) The gifts and hospitality code has been incorporated within the member code of conduct as a registrable interest;
- b) The requirement to declare the offer of gifts and hospitality is at a revised rate of £20.00;
- c) There is a new description of personal registrable interests known as schedule 2 interests;
- d) There is a new table explaining when a member has an interest whether they can participate, vote or are required to leave the room;
- e) The member use of resources code has been deleted and incorporated into the member code of conduct and the member officer relationships code; and
- f) Guidance will be developed by the monitoring officer to support the implementation.

Governance improvement working group

- 10 As part of the review to inform the development of the annual governance statement, the working group was consulted on a revised code of corporate governance which aligned more closely to the design principles agreed for the constitution and reflected recently issued guidance for councils about corporate governance.
- 11 The working group has reviewed revised contract and finance procedure rules, having regard to the advice of the chief finance officer (the council's section 151 officer) and the head of law and governance.
- 12 As agreed by Council in December the draft approved by Council has undergone a quality assurance review to proof read and ensure cross references were correct. During this process a number of minor and legislative amendments have been made and these are detailed at appendix 2. Members may view the tracked changes at: [Constitution Review](#) and the final draft is in appendix 1.
- 13 The working group has also overseen the development of a training and communication programme for members and employees to support implementation of the new constitution.
- 14 The audit and governance committee considered the recommendations from the two working groups at its meeting on 10 May 2016 and recommended the revised Constitution as attached at appendix 1 for adoption.

Community impact

- 15 The constitution sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. The format and content of the revised constitution should help make these arrangements clearer to understand, and show how the public can effectively engage with them.

Equality duty

- 16 Legislation requires that the council must, in the exercise of its functions, have due regard to the need to:
- a) eliminate discrimination, harassment, victimisation and any other conduct prohibited by law;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 17 The recommended changes to the constitution seek to ensure that, in its decision-making and its operations, the council fully complies with the public sector equality duty.

Financial implications

- 18 None arising from the recommendations. The council already makes provision within its existing budgets to enable publication of the constitution on its website and to ensure that members and officers have the training necessary to ensure awareness and understanding of the requirements within the constitution.

Legal implications

- 19 The council must prepare and keep up to date a constitution in accordance with s37 of the Local Government Act 2000. The minimum requirements for the content are set out in The Local Government Act 2000 (constitutions) (England) Direction 2000 which have been complied with when preparing the amendments. A checklist has been produced to demonstrate how the draft constitution complies with these minimum requirements, and is attached at appendix 3.

Risk management

- 20 If the council's constitution is not accurate, up to date and understood then there is a risk that governance arrangements are not clear and robust leaving the council open to judicial review, contractual challenge or financial risk. The proposed amendments and adoption of the revised constitution seek to mitigate that risk. In addition the audit and governance committee will continue to maintain oversight of the constitution, once adopted, and should any further amendments be necessary will make recommendations to full Council accordingly.

Consultees

- 21 The standards working group has consulted with all members, and with parish councils and the councils appointed independent persons and their views were taken into account.
- 22 The governance improvement working group have consulted with members from their groups and their views have been taken into account.

Appendices

Appendix 1 – revised constitution
Appendix 2 – schedule of changes to the constitution
Appendix 3 – Local Government Act checklist

Background papers

None identified