

Supplement to the agenda for

Council

Friday 11 October 2024

10.00 am

**Conference Room 1 - Herefordshire Council, Plough Lane
Offices, Hereford, HR4 0LE**

	Pages
9. CONSTITUTION - UPDATES	3 - 28

Title of report: Constitution – Updates

Meeting: Council

Meeting date: Friday 11 October 2024

Report by: Head of Legal Services and Deputy Monitoring Officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

A report to propose amendments to the constitution in relation to: functions of Audit and Governance Committee including recruitment and appointment of Independent Persons to Audit and Governance Committee; functions of Planning and Regulatory Committee; clarification of the Planning Code and functions rules; amendment to Fostering Panel membership to reflect practice; amendment to employment rules; amendment to the corporate scheme of delegation; amendment to enable consequential changes to be made to the Constitution; clarification to call-in; and role description for position of chair and vice chairperson .

Recommendation(s)

That Council approves changes in the Constitution:

- a) **in Appendix 1 to enable a change to the process for resolution of objections to the framework proposals, in the Budget and Policy Framework;**
- b) **in Appendix 2 to enable changes to Audit and Governance Committee functions including recruitment of the Council's independent persons;**
- c) **in Appendix 3 to make changes to clarify the rules in The Planning code and functions of the Planning and Regulatory Committee;**
- d) **in Appendix 4 to make changes to fostering panel membership to accurately reflect practice;**

- e) in Appendix 5 to makes changes to the corporate scheme of delegation to include provision for the statutory ‘Qualified Person’ under the Freedom of Information Act 2000;
- f) in Appendix 6 to enable changes to the employment rules, relating to the delegation to the head of paid service to make appropriate interim arrangements when required;
- g) in Appendix 7 to enable consequential changes to be made to the Constitution;
- h) in Appendix 8 to clarify the rules relating to officer decisions and call in; and
- i) in Appendix 9 to include a role description for the chair and vice chair of a committee.

Alternative options

1. Council may choose not to approve the proposals and agree that functions will remain as currently described in the Constitution. This is not recommended

Key considerations

Appendix 1 Budget and Policy Framework

2. Part 3 Section 4 of the Constitution describes the budget and policy framework rules. The current process for approval of the framework is at 4.3.3 to 4.3.20.
3. In its current form, the rules around resolution, if a recommendation is rejected or an amendment proposed by Council, then a further meeting of Council is required (4.3.16) unless the leader indicates at the meeting itself, on behalf of the cabinet, that they accept the amendment.
4. However, it is also the case that, currently the rules say that the second Council meeting must be held even if the Cabinet subsequently agrees to the initial amendment by Council.
5. The proposed amendments at Appendix 1 aim to provide greater flexibility and a mechanism to resolve any potential differences between Council and Cabinet, and to avoid the need to hold additional meetings of Council if resolution can be reached. In the position where the Cabinet agrees with the amendments or after consideration agrees, then decision can be taken without a further meeting of Council.

Appendix 2 Audit and Governance

6. Section 28 (7) of the Localism Act 2011 requires at least one independent person to be appointed, whose views must be sought by the Council in relation to Code of Conduct complaints.
7. The Council had four Independent Persons pursuant to Section 28 (7) of the Localism Act 2011 until the resignation of one, in June 2024. A proposed appointment to maintain four Independent Persons will be recommended to Council in October 2024.
8. Part 3 Section 1 of the Constitution, at 47D, currently provides for recruitment of up to three Independent Persons by the Monitoring Officer. The proposed amendment will align the Constitution with current practice and allow for the recruitment of up to four Independent Persons (in consultation with the Chair of Audit & Governance).
9. Additionally, the Terms of Reference for the Audit and Governance Committee require the appointment, to that committee, of an additional independent person who is not a councillor.

This person is not appointed under the Localism Act, as described above. The proposed amendments clarify that distinction at Part 2 Article 7 of the Constitution, at 2.7.4, by referring to this person as an independent expert.

10. Currently, appointment of the Independent Persons and an independent expert, should the above amendment be approved, must be done by full Council. The proposed amendments would simplify the process, allowing the Monitoring Officer, in consultation with the Chair of the Audit and Governance Committee, to appoint both sets of the independent persons.

Appendix 3 Planning and Regulatory functions

11. The Planning Code is at Part 5 Section 6 of the Constitution. The Code contains controls around members who are decision makers in respect of lobbying and / or contact with applicants and /or objectors to a planning application.
12. A ward councillor does not have these limitations because they are not decision makers, so they can speak to whomever they wish, and can represent the views of their residents as they see fit.
13. In most cases the drafting separation between the obligations and rights of members on the committee and members who are not on the committee, works correctly. However, according to The Planning Code, a ward member who is on the committee cannot vote (Constitution Part 4 at paragraph 4.8.9) but, since they are 'on the committee', they are nevertheless bound by the requirements of a decision maker (who can vote), and so cannot speak to an applicant. This effectively prevents a ward member who is on the committee from speaking to residents and representing the views of their residents as they see fit.
14. Similarly, any member of the Committee who does not intend to vote (due to a predetermination or interest) is bound by the same provisions.
15. The proposed amendments to The Planning Code at 5.6.9, and the Planning Rules at Part 4 Section 8, clarify what ward members can do, by distinguishing between voting and not voting members.
16. Part 3 Section 5 of the Constitution describes the functions of the Planning and regulatory committee.
17. The regulation of sex establishments (sex shops, sex cinemas, and sexual entertainment venues) is set out in the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009. This function is not listed currently in Part 3 Section 5.
18. The proposed amendment at 3.5.7 clarifies the inclusion, in its licensing functions, of applications for the licensing of Sex establishments, which are currently determined by the Licensing sub-committee but not currently listed in its functions.
19. Part 3 Section 5 of the Constitution at 3.5.6 and 3.5.7 also describes the Council's Licensing functions. As currently drafted, the Constitution says that the functions of the licensing authority are to be taken or carried out by the licensing subcommittee which conflicts with the delegation in section 7 of the Licensing Act 2003. However, it is not the case that all functions would be carried out by the licensing subcommittee and, in particular, the Planning and Regulatory committee should determine policy and guidance, not the licensing subcommittee, that are not reserved to council.
20. The proposed amendment at 3.5.6 aims to clarify and correct this point. However, officers have requested that the 5 main licensing policies remain with full Council. Currently the policies for

gambling and alcohol are reserved to Council under statute, and taxi's is already reserved to full Council. The proposal is to add tattoo and sex establishment venues to the policies that require full Council approval.

21. Finally, an amendment is proposed at Part 2 Article 8, at 2.8.5, to clarify a point that is currently not clear, that the Planning and regulatory committee determines all policy and guidance in relation to its functions that are not delegated to officers or reserved to full Council.

Appendix 4 Fostering Panel

22. Part 2 Article 9 of the Constitution at Article 2.9.28 currently includes an absolute restriction that elected members cannot be selected to join the Fostering Panel. It not considered that this exclusion on elected members is desirable or necessary as the [The Fostering Services \(England\) Regulations 2011](#) allows elected members and these regulations already make provision in respect to the membership of the panel and the roles that elected members can play. The previous regulations [The Fostering Services Regulations 2002](#) made it mandatory that an elected member had to be on the panel so this current exclusion appears to be arbitrary and it is unclear why this is the position for Herefordshire. As the Fostering Panel itself holds the list of individuals considered appropriate to be on the panel and such already includes elected members, the proposed amendment reflects the accurate and actual position – it appears to be an unnecessary exclusion for members. The proposal is to remove this arbitrary restriction.

Appendix 5 Corporate Scheme of Delegation

23. The proposed amendment to the Constitution's Scheme of Delegation - Corporate Services, adds the role of 'Qualified Person' for the purposes of the Freedom of Information Act 2000, which is currently missing.
24. The Monitoring Officer is authorised by the Secretary of State as the primary qualified person for the purposes of the Freedom of Information Act 2000 (prejudice to effective conduct of public affairs) and the proposed amendment reflects this requirement.

Appendix 6 Employment Rules

25. Part 4 Section 9 of the Constitution currently provides, at 4.9.11, for the head of paid service to make such interim senior appointments (directors and statutory officers) to ensure that the statutory functions of the council are always adequately fulfilled. However, as currently drafted the rules restrict the type of arrangement that can be made, to a contract for services, which differs legally from an employment contract, for these roles. The head of paid service cannot engage a directly employed interims, but it is unrestricted to engage those on a locum type role (for example through an agency). This has no logical purpose.
26. The proposed amendment provides a more useful delegation in that the head of paid service can make any interim arrangements for senior roles, but this limited by length of time to appointments of up to 12 months. Any recruitment or extension of an interim senior appointment (with the same individual) for a total period of greater than 12 months requires a decision of the Employment Panel.

Appendix 7 Updates to the Constitution

27. Part 3 Section 1 of the Constitution (Council Functions) makes provisions including for changing the constitution. In relation to technical changes or those required by law only, this is delegated to the Monitoring Officer.

28. However, as currently drafted, this means that consequential changes to correct an error, or to resolve an inconsistency, or as a result of a subsequent decision of Council are not included, and such changes would have to be approved by Council. The proposed amendment would enable the Monitoring Officer to make such changes where necessary.

Appendix 8 clarification of the rules relating to officer decisions, key decisions and call in

29. Part 3 Section 7 of the Constitution (Officer Functions) describes the rules around types of decisions, including decisions that can be taken by the chief executive or delegated by the CEO to senior officers.
30. As currently drafted, this could imply that subsequent decisions taken by officers, to implement a key decision of cabinet or a cabinet member, is itself a new key decision. This is considered not to be the intention of Council, and the proposed amendment to implement a delegated key decision is not a new key decision (requiring a further 28-day notification period).
31. Part 4 Section 5 of the Constitution (Scrutiny Rules) at 4.5.62 defines the provisions for call in of decisions. As drafted, this could be interpreted to mean that officer decisions could be called in when the officer is operating under an express and precise delegation from a key decision of cabinet or a cabinet member. As drafted, this means that the implementation by an officer of a delegated key decision (which could have been called in at cabinet) could again be subject to further call-in. The proposed amendment clarifies that an officer acting under such express delegation is not included in the general definition at 4.5.62.

Appendix 9 Role Description of Chair and Vice Chair of committees

32. The constitution currently does not include a role description for Vice Chair of council committees. A separate report from the Independent Remuneration Committee recommends that the role of the Vice Chair is developed and this requires both positions to be reviewed. The proposed amendment includes these role descriptions.

Community impact

33. The proposals do not have any community impact, nor do they link to other local or national strategies or policies. They are proposals that fall within Council's powers to make local arrangements.

Environmental Impact

34. The proposals do not have any environmental impact.

Equality duty

35. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

36. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision in respect to the internal decision making for the Council, we do not believe that it will have an impact on our equality duty.

Resource implications

37. There are no resource implications to the proposed amendments.

Legal implications

38. Legal implications are referred to in the sections above, where relevant.

Risk management

39. There are no risks arising directly from the report.

Consultees

40. Group Leaders were consulted on 16th September 2024. The Chair of Audit & Governance was consulted on 4th October 2024.

41. Instructions were received from relevant lead officers who were consulted on 04 September 2024.

Appendices

Appendix 1 Budget and Policy Framework
Appendix 2 Audit and Governance
Appendix 3 Planning and Regulatory
Appendix 4 Fostering Panel
Appendix 5 Corporate Scheme of Delegation
Appendix 6 Employment Rules
Appendix 7 Updates to the Constitution
Appendix 8 Clarifications for key decisions and call in
Appendix 9 role description for the chair and vice chairperson

Background papers

None identified.

Useful links:

[Part 4 Section 3 Budget and Policy Framework Rules.pdf \(herefordshire.gov.uk\)](#)
[Part 3 Section 1 Council Functions.pdf \(herefordshire.gov.uk\)](#)
[Part 2 Article 7 The audit and governance committee.pdf \(herefordshire.gov.uk\)](#)
[Part 3 Section 5 Other Functions.pdf \(herefordshire.gov.uk\)](#)
[Part 5 Section 6 Planning code.pdf \(herefordshire.gov.uk\)](#)
[Part 4 Section 8 Planning Rules.pdf \(herefordshire.gov.uk\)](#)
[Part 2 Article 8 Planning licensing and other functions.pdf \(herefordshire.gov.uk\)](#)
[Part 2 Article 9 Joint arrangements.pdf \(herefordshire.gov.uk\)](#)

[- Herefordshire Council](#) (Schemes of Delegation)
[Part 4 Section 9 Employment Rules.pdf \(herefordshire.gov.uk\)](#)

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published		
Governance	John Coleman	Date 03/10/2024
Finance	Click or tap here to enter text.	Date Click or tap to enter a date.
Legal	Sean O'Connor	Date 03/10/2024
Communications	Luenne Featherstone	Date 03/10/2024
Equality Duty	Click or tap here to enter text.	Date Click or tap to enter a date.
Procurement	Click or tap here to enter text.	Date Click or tap to enter a date.
Risk	Click or tap here to enter text.	Date Click or tap to enter a date.
Approved by	Click or tap here to enter text.	Date Click or tap to enter a date.

Appendix 1 - Changes to the Constitution – Budget and Policy Framework

Note: strikethrough indicates text removed. Underline indicates new text.

Section	Part 4 Section 3
Proposed Changes	<p>4.3.15 If Council rejects or amends the cabinet's recommendation or substitutes alternative or additional proposals in place of the cabinet's recommendations, one of the following procedures will be followed:</p> <p>Either:</p> <p>(a) where an amendment to a draft plan or strategy, or to the budget has been submitted, the leader may indicate, on behalf of the cabinet, that they accept the amendment; in these circumstances, the amendment shall be regarded as incorporated in the draft plan or strategy before Council and Council's decision may take immediate effect; or</p> <p>(b) where a majority vote has not been achieved immediately prior to the close of the meeting the chairperson of the council will adjourn the meeting until a date (not less than ten working days thereafter) to be agreed by the leader. The leader may agree that the matter be deferred to the next meeting of Council. At the reconvened or next meeting Council will consider the matter again.</p> <p>4.3.16 At least five clear working days before the date on which the adjourned or next meeting is to be reconvened, the leader will provide a further report to Council in which he will set out the cabinet's response to the Council's proposals or concerns. That report must address all relevant issues and in particular, must include advice on the financial and legal implications.</p> <p>4.3.17 The leader may:</p> <p>(a) submit a revision of the draft budget plan or strategy with the cabinet's reasons for any amendments and any advice from officers for Council to consider</p> <p>(b) inform Council of any disagreement the cabinet has with Council's amendments or substitute proposals and the cabinet's reasons for such disagreement (c) agree any in principle decisions of Council in whole or in part.</p> <p>4.3.18 If the leader of the council fails to agree a date for the reconvened meeting of council or that the matter may be deferred to the next meeting, the chairperson of the council shall set the date of the reconvened meeting or decide that the matter be deferred to the next meeting.</p> <p>4.3.19 At the reconvened or next meeting, Council may approve the cabinet's recommendation or approve a different decision that does not accord with the recommendation of the cabinet. A majority vote must be obtained and this may involve a vote being called more than once.</p> <p>4.3.20 The decision shall then be made public and shall be implemented immediately.</p> <p><u>4.3.15 If Council has objections to any part forming part of the Budget and Policy Framework it may resolve to amend it.</u></p>

Further information on the subject of this report is available from
Sean O'Connor, Tel: 01432 383622, email: Sean.O'Connor@herefordshire.gov.ukl

4.3.16 if an amendment to the Budget and Policy Framework has been submitted in accordance with Council's Constitution Part 4 Section 1 (Council and Committee meeting rules) and the Leader indicates, on behalf of Cabinet, that they accept the amendments, then the Budget and Policy Framework shall be deemed to include such amendments.

4.3.17 If the amendment isn't accepted by the Leader as outlined in paragraph 4.3.16, Council cannot amend Budget and Policy Framework until the following process has been followed. Council may however make an 'in principle' decision to amend the Budget and Policy Framework.

4.3.18 Council shall vote on the amendment and if passed as an 'in principle' decision, then it will instruct Cabinet to reconsider the amendment to the Budget and Policy Framework.

4.3.19 Council will specify a date by which the Cabinet may submit a response to Council in respect to the amended part of the Budget and Policy Framework. That date must be at least 10 working days after the date of the 'in principle' Council decision.

4.3.20 If Cabinet does not submit a response within the time specified, then the 'in principle' decision takes effect the day following the date specified by Council.

4.3.21 If Cabinet wishes to submit a response, then Cabinet will meet to consider Council's amended Budget and Policy Framework and may resolve to:

- a. accept Council's amendments and make no further submissions, in which case the 'in principle' decision of Council takes effect immediately; or
- b. disagree with Council's amendments, in which case the Cabinet must inform Council that Cabinet disagrees with Council's amendments and explain why; or
- c. make further amendments to the amended part of the Budget and Policy Framework, in which case Cabinet must submit any revised draft to Council together with Cabinet's reasons for those revisions

4.3.22 If appropriate, Cabinet may wish to consult the relevant Overview and Scrutiny Committee (or in the case of urgency the Chair of the relevant Committee) in such reconsideration.

4.3.23 If Cabinet submits a response under para 4.3.21 b. or c. above then a further Council meeting will be held at least 5 working days after the date of submission of the response. The Chairperson of the Council shall set the date of the further Council meeting.

4.3.24 At any further Council meeting, Council must then consider the submissions made by Cabinet before finally approving the Budget and Policy Framework. Council shall approve either the Budget and Policy Framework (i) as originally submitted by Cabinet to the first Council meeting or (ii) as amended by Council at the first Council meeting or (iii) as recommended by any further Cabinet amendments. The decision shall then be made public and shall be implemented immediately.

Appendix 2 - Changes to the Constitution – Audit and Governance

Note: strikethrough indicates text removed. Underline indicates new text.

Section	Part 3 Section 1 Functions – Audit and Governance	
Proposed Changes	47D	Recruitment of up to <u>four</u> Monitoring officer from 25 three independent persons May 2012– pursuant to Section 28 (7) of <u>Audit & Governance</u> the Localism Act 2011 <u>Committee but delegated</u> <u>further to the Monitoring</u> <u>Officer (in consultation with</u> <u>Chair of Audit &</u> <u>Governance Committee).</u>
Section	Part 3 Section 1 - Audit and Governance	
Proposed Changes	11	The appointment by the authority Council meeting only– of <u>up to four</u> at least one independent persons under the <u>Audit & Governance</u> Localism Act 2011 <u>and the</u> <u>Committee but delegated</u> <u>appointment of the additional</u> <u>further to Monitoring Officer</u> <u>independent expert to the Audit</u> <u>(in consultation with the</u> <u>and Governance Committee.</u> <u>Chair of Audit and</u> <u>Governance Committee).</u>
Section	Part 2 Article 7 - Audit and Governance Committee	
Proposed Changes	2.7.4 The audit and governance committee comprises seven members of the council plus an additional independent <u>expert</u> person who is not a councillor but is appointed by council <u>and is appointed by Monitoring Officer (in consultation with the Chair of Audit & Governance) under delegation from the Audit & Governance committee.</u> This co-opted member has the voting rights as set out in Part 3 paragraph 3.5.9b. As such they are a 'co-opted member' as defined in s.27(4) of the Localism Act 2011 and would be required to comply with the Councillor Code of Conduct in Part 5 Section 2 of this Constitution.	

Appendix 3 - Changes to the Constitution – Planning & Regulatory Functions

Note: strikethrough indicates text removed. Underline indicates new text.

Section	Part 5 Section 6 - The Planning Code
Proposed Changes	<p>PART 1 - THE ROLE OF COUNCILLORS WHO ARE <u>VOTING</u> MEMBERS OF THE COMMITTEE</p> <p>add after 5.6.9:</p> <p><u>The above rules apply to all decision makers on committee i.e. those who are voting members.</u></p> <p><u>A ward member who is a member of the committee is not a voting member of the committee.</u></p> <p><u>A member of the committee who does not intend to take part in any discussion or vote (because they have either predetermined a matter or have an interest) is not a voting member of the committee.</u></p> <p><u>Non-voting members of the committees may speak to applicants without adherence to the above restrictions, since they are not able to vote on that item.</u></p> <p>PART 2 - THE ROLE OF COUNCILLORS WHO ARE NOT MEMBERS OF THE COMMITTEE <u>(OR NON-VOTING MEMBERS OF THE COMMITTEE)</u></p>
Section	Part 4 Procedure Rules at Section 8 Planning Rules
Proposed Changes	<p>4.8.9 At Committee the ward member will have an automatic right to start and close the member debate on the application concerned, subject to the provisions on the declaration of interests as reflected in the Planning Code of Conduct (Part 5 section 6). In the case of the ward member not being a member of the Committee, they would be invited to address the Committee for that item. [In the case of the ward member being a member of the appropriate Committee, they will not vote on that item, and act as the ward member as set out above.] To this extent all members have the opportunity of expressing their own views, and those of their constituents as they see fit, outside the regulatory controls of the Committee concerned. The ward member would initially address the Committee immediately after the public speaking.</p> <p><u>In the case of the ward member who isn't a member of the Committee, they would be invited to address the Committee for that item. They are not a decision maker and cannot vote.</u></p> <p><u>In the case of the ward member who is a member of the Committee, they can act as the ward member as set out above but, as a decision maker, cannot vote on that item.</u></p>

	<u>To this extent all members have the opportunity of expressing their own views, and those of their constituents as they see fit, outside the regulatory controls of the Committee concerned.</u>
Section	Part 3 Section 5 Other Functions
Proposed changes	3.5.7 <u>(p) Applications for licensing Sex Establishments under the Local Government (Miscellaneous Provisions) Act 1982.</u>
Section	Part 3 Section 5 Other Functions
Proposed Changes	3.5.5 Licensing functions <u>3.5.6 The Council has delegated its licensing functions to the Planning and Regulatory committee. The committee shall have responsibility (including policy and strategy) for all licensing matters (including as licensing committee under Licensing Act 2003) other than for functions which have been reserved to Council (in para 2.a and 3.a of Part 3 Section 1) or delegated to an officer (Part 3 Section Appendix). The licensing committee has delegated functions to the licensing subcommittee or officers in accordance with Part 3 Section the Appendix. are to be taken or carried out by the licensing subcommittee.</u>
Section	Part 2 Article 8 Functions
Proposed Changes	2.8.3 The committee comprises 15 councillors, one of whom will be appointed by Council to be the standing chairperson of the licensing sub-committee. <u>The committee shall act as the council's Licensing Committee for the purposes of section 6 of the Licensing Act 2003.</u> 2.8.5 The committee <u>determines all policy and guidance in relation to its functions other than for functions which have been reserved to Council (in para 2.a and 3.a of Part 3 Section 1) or delegated to an officer (Part 3 Section Appendix), and:</u>
Section	Part 3 Section 1 Council Functions
Proposed Changes	3a Other polices Licensing authority policy statements under s5 Licensing Act 2003 Taxi and private hire policy Pay policy statement under s38 of the Localism Act 2011 <u>Sex Establishment Venue policy under the Local Government (Miscellaneous Provisions) Act 1982</u> <u>Tattooing, Body Piercing and Skins Policy under the Local Government (Miscellaneous Provisions) Act 1982</u>

Appendix 4 - Changes to the Constitution – Fostering Panel

Note: strikethrough indicates text removed. Underline indicates new text.

Section	Part 2 Article 9 Joint Arrangements
<p>Proposed Changes</p>	<p>2.9.28 Herefordshire Fostering Panel has a crucial role in the provision and monitoring of foster care for children and young people. There is no fixed panel membership or maximum number of members. An Independent Chair is appointed, and the membership must be drawn from a Central list of persons with the appropriate qualifications and/or experience, in accordance with the Fostering Services (England) Regulations 2011. <u>Elected members are not appointed to the Panel due to their status as a member of the Council but they may be selected by the Panel itself due to their expertise. However, the elected member cannot be the chairman (under regulation 22) or considered to be an independent member for the purposes of the quorum (under regulation 23)</u> Elected members do not sit on this panel.</p>

Appendix 5 - Changes to the Constitution – Scheme of Delegation

Note: strikethrough indicates text removed. Underline indicates new text.

Section	Scheme of Delegation Corporate Services					
Proposed Changes	Reference	What the function/power is	Who may carry it out	Any constraints/comments	Decision (E/C/O)	Previous Reference
	12A	To act on behalf of the council as 'Qualified Person' in respect of the Freedom of Information Act 2000	Monitoring Officer	The Monitoring Officer is authorised by the Secretary of State as the primary qualified person for the purposes of the Freedom of Information Act 2000 (section 36 - prejudice to effective conduct of public affairs).	O	N/A

Appendix 6 - Changes to the Constitution – Employment Rules

Note: strikethrough indicates text removed. Underline indicates new text.

Section	Part 4 Section 9 - Employment rules
Proposed Changes	<p>4.9.11 Interim senior officer arrangements</p> <p>4.9.12 The head of paid service will make such interim <u>appointments of arrangements under contracts for services for senior officers, for up to 12 months</u> for senior officers named in 4.9.3 above as may be necessary from time to time to ensure that the statutory functions of the council are adequately fulfilled. <u>Individual appointments for a period of greater than 12 months with the same interim individual (or to extend for a period of greater than 12 months) can be made by a decision of the Employment Panel.</u></p>

Appendix 7 - Changes to the Constitution – Updates to Constitution

Note: strikethrough indicates text removed. Underline indicates new text.

Section	Part 3 Section 1 Council Functions	
Proposed Changes	Column 1 What is the council function	Column 2 Who can carry the function out
	Adopting and changing the constitution including standing order	Council meeting only Audit and Governance committee (finance procedure rules and contract procedure rules. Chief executive employee code of conduct (in consultation with employment panel) Monitoring officer (<u>limited to technical changes or those required by law only, and consequential changes to correct any error, resolve an inconsistency within the constitution or as a result of a subsequent decision of Council or Cabinet</u>)

Appendix 8 – Key decisions and call in

Note: strikethrough indicates text removed. Underline indicates new text.

Section	Part 3 Section 7 Officer Functions
Proposed Changes	<p>Insert as 3.7.18:</p> <p><u>3.7.18 By way of clarification, an officer decision which is to implement a key decision of cabinet or a cabinet member, is not itself a further key decision.</u></p>
Section	Part 4 Section 5 Scrutiny Rules
	<p>4.5.62 “Call in” is a statutory right for members of council to call in a decision of cabinet, an individual cabinet member, an officer with delegated authority or under joint arrangements after it is made by the executive but before it is implemented subject to the following provisions (4.5.59, 4.5.63, 4.5.65 and 4.5.69). <u>An “officer with delegated authority” does not include any officer implementing an express delegation that has been delegated via a precise and expressly worded key decision of cabinet or a cabinet member.</u></p>

Appendix 9 Role description Chair and Vice Chairperson

Note: strikethrough indicates text removed. Underline indicates new text.

Section	Part 5 Section 9 'Role of Members' at Appendix 1 (member role profiles)
<p>Proposed Changes</p>	<p>Committee chairperson:</p> <ul style="list-style-type: none"> • Understand the role of the committee • Understand the role of the chairperson • Provide leadership and direction • Provide effective meeting management • Spend time with relevant officers to agree agendas and minutes • Ensure all attendees have an opportunity to contribute to the meeting <p><u>Committee Chairperson</u></p> <p><u>The key duties and responsibilities of the Chairperson of a committee or body ('the committee) of the Council are:</u></p> <ul style="list-style-type: none"> • <u>To lead the work in respect to the purpose and proceedings of the relevant committee in accordance with its terms of reference.</u> • <u>To demonstrate leadership skills including impartial chairing meetings and setting standards for the effective operation of the committee in such a way to facilitate open discussion and valid decisions.</u> • <u>facilitate fair and open decision-making by, or on behalf of, the committee</u> • <u>Develop engagement with individuals and representatives for which the committee has responsibility.</u> • <u>To ensure the work of the committee or body is transparent and open to public scrutiny and debate.</u> • <u>To ensure that all attendees have an opportunity to contribute to the meeting</u> • <u>To attend committee meetings and other stakeholder meetings with senior officials</u> • <u>Ensuring a value for money approach to the financial and resource management of committee resources.</u> • <u>To challenge constructively both within the committee or body and with internal and external with stakeholders</u> • <u>To consider the outcome of the research, analyse the results and communicate how that evidence supports the committee or body decisions.</u>

	<ul style="list-style-type: none">• <u>To champion understanding and commitment to equality issues and challenging discriminatory practices.</u>• <u>To act as spokesperson for the committee and liaise with community groups, partners, outside bodies and the public on matters that fall within the remit of the committee</u>• <u>To encourage the highest standards of behaviour and probity</u>• <u>To work with officers and members to make sure that committee members develop the necessary skills and knowledge to contribute effectively to the work of the committee and to work with officers to provide training where appropriate on changing procedures and legislation</u> <p><u>Vice Chairperson</u></p> <ul style="list-style-type: none">• <u>To assist/take on part of the above duties on behalf of the Chairperson on request of the Chairperson for the better discharge of the duties of the committee.</u>• <u>To assist/take on the above duties on behalf of the Chairperson if he/she is unable to do so.</u>
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