

<b>TITLE</b>	<b>Changes to the Constitution</b>
<b>FOR CONSIDERATION BY</b>	Council on 20 July 2017
<b>WARD</b>	None Specific
<b>LEAD OFFICER</b>	Andrew Moulton, Assistant Director, Governance

## **OUTCOME / BENEFITS TO THE COMMUNITY**

Reviewing the Council's Constitution on a regular basis ensures that it is relevant and fit for purpose.

## **RECOMMENDATION**

That Council agree the following changes to the Constitution as recommended by the Constitution Review Working Group:

1) Chapter 2.2.3 Independent Remuneration Panel

that Rule 2.2.3 be amended as follows:

**2.2.3 Independent Remuneration Panel**

The Council commissions an Independent Remuneration Panel to review the Scheme of Members Allowances annually. ***Should there have been little or no change during the year, the Independent Remuneration Panel may decide not to undertake a full review or any review of the Scheme of Members Allowances. In such instances, the Panel will report their decision and the reason for it to Full Council.***

2) that Rule 4.4.35 Quorum be amended as follows:

"4.4.35. The quorum of the Health and Wellbeing Board shall be four. Representatives from Wokingham Borough Council and the Clinical Commissioning Group must be in attendance at each meeting.

***If neither the Chairman nor Vice Chairman is present a Chairman will be elected for that meeting. Substitute voting members for the Chairman and Vice Chairman, for that meeting will be identified prior to the meeting."***

3) that the following be added to Rule 8.1.1 Planning Committee's Terms of Reference and the Procedure for Appeals added as an appendix to the Constitution (Appendix A to the report):

***"m) Applications by any person in respect of a decision to designate/de-designate a building as a Building of Traditional Local Character. This is conditional in that the application must be made within eight weeks beginning with the day on which written confirmation of the decision was issued to the relevant parties (unless a longer period is agreed by either the Chairman of the Planning Committee or the Director Customer and Localities Services.)***

4) Chapter 9.1 Process for Considering Code of Conduct Complaints

Guidelines to support the Monitoring Officer's initial decision regarding a complaint to be added to Rule 9.1.13.4 Initial Decision of the Monitoring Officer (Appendix B to report).

**SUMMARY OF REPORT**

Chapter 1.1.4 of the Council's Constitution states that the Monitoring Officer will monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect.

The report contains revisions to a number of areas in the Constitution which were agreed by the CRWG at their meeting on 21 June 2017.

**Background**

**SECTION 2 – COUNCILLORS**

**Independent Remuneration Panel**

1. The CRWG considered proposals regarding the Independent Remuneration Panel (IRP). Having reviewed the evidence provided, Members were of the view that the composition of the Panel should remain at five and that the Panel should continue to review the Scheme of Members' Allowances on an annual basis. With regards to whether the Council should be bound by the IRP's recommendations, the CRWG felt that voting arrangements should remain unchanged.

Nevertheless, Members recognised that on some occasions, when little had changed regarding Members' Allowance, it might not be necessary for the IRP to undertake a full review or in fact a review at all, each year. It was therefore proposed that the IRP be given the ability to decide not to undertake a review if they felt that it was not needed. The IRP would still be required to report this to Council on an annual basis. It was proposed that the Constitution be updated to reflect this.

**SECTION 4 – THE COUNCIL MEETING**

2. At the Health and Wellbeing Board meeting held on 6 April 2017 a request was made to amend the rule in the Board's terms of reference relating to quorum to remove reference to the fact that either the Chairman or the Vice Chairman must be present for the meeting to be quorate. This change has been proposed because there have been occasions when the Chairman and Vice Chairman have not been able to attend a particular meeting and the meeting has had to be cancelled at short notice.

3. The CRWG considered this request and felt that this would be appropriate.

The following change is therefore proposed to Rule 4.4.35:

*"The quorum of the Health and Wellbeing Board shall be four. Representatives from Wokingham Borough Council and the Clinical Commissioning Group must be in attendance at each meeting.*

***If neither the Chairman nor Vice Chairman is present a Chairman will be elected for that meeting. Substitute voting members for the Chairman and Vice Chairman, for that meeting will be identified prior to the meeting.”***

## **SECTION 8 – REGULATORY AND OTHER COMMITTEES**

### **Chapter 8.1 – Planning Committee Terms of Reference**

4. At its meeting on 30 March 2017 the Executive considered a policy for revisions/additions to the list of Buildings of Traditional Local Character. It was proposed that all review requests be considered by the Planning Committee. In order for the Planning Committee to undertake such appeals the following will need to be added to their terms of reference (Rule 8.1.1) and the Procedure for Appeals would need to be added as an appendix to the Constitution:

***“m) Applications by any person in respect of a decision to designate/de-designate a building as a Building of Traditional Local Character. This is conditional in that the application must be made within eight weeks beginning with the day on which written confirmation of the decision was issued to the relevant parties (unless a longer period is agreed by either the Chairman of the Planning Committee or the Director Customer and Localities Services.)***

The Procedure for Appeals is attached as Appendix A to the report.

## **SECTION 9 – ETHICS AND CORPORATE GOVERNANCE**

5. At its meeting on 14 March 2017 the Standards Committee considered a number of proposals regarding changes to the Member Code of Conduct complaints process.

6. CRWG noted the Standards Committee’s subsequent recommendations and agreed that the wording setting out potential guidelines to support the Monitoring Officer’s initial decision should be included in the Constitution at Rule 9.1.13.4 Initial Decision of the Monitoring Officer, to provide clarification to the process.

Guidelines to support the Monitoring Officer’s initial decision regarding a complaint is attached as Appendix B to the report.

### **FINANCIAL IMPLICATIONS OF THE RECOMMENDATION**

***The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context***

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£0		
Next Financial Year (Year 2)	£0		

Following Financial Year (Year 3)	£0		
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<b>Other financial information relevant to the Recommendation/Decision</b>
There are no financial implications arising from this report.

<b>Cross-Council Implications</b>
None

<b>List of Background Papers</b>
The Council's Constitution

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## Procedure for Appeals

1. Requests for an appeal against the original decision of the Council in respect of a request to designate an asset as a Building of Traditional Local Character can be made by any person or body.
2. The request for the review must be made to the Council in writing by any person. This must be received within eight weeks beginning with the day on which written confirmation of the decision was issued to the relevant parties listed above. The Council is able to allow longer periods for submitting a review.
3. In considering the request for a review an original decision about whether to include an asset on 'The List', the Council will take into account the following factors:-
  - a. The eligibility of the building against the Criteria and Procedure for Considering a Nomination for Listing as a Building of Traditional Local Character (as set out in The Procedure for Adding or Updating a Building on 'The List')
  - b. Any new factors that have come to light since the original decision was made. For example, removal of a building from 'The List' may be appropriate in circumstances where it no longer meets the criteria for selection, has been demolished, or has undergone development changes that have negatively impacted on its significance.
  - c. Any matter put forward that the Council cannot consider in assessing whether the asset should be designated (i.e. Matters not included in the Criteria and Procedure for Considering a Nomination for Listing as a Building of Traditional Local Character)
4. The Council will not take any financial or commercial issues into account in the decision to include a building on 'The List'.
5. All valid review requests that meet the requirement set out in this procedure will be assessed by the Planning Committee which will have the final decision on whether the asset will be included on "The List".

*The purpose of the initial assessment by the Monitoring Officer, in consultation with an Independent Person and Chairman of the Standards Committee, is to determine whether the complaint should be accepted for further consideration or rejected. In determining whether a complaint should proceed the Monitoring Officer may apply the following criteria:*

- Sufficiency of information – Is there sufficient information or evidence provided with the allegation? If it appears that substantiating evidence may be available, but has not been provided, the Monitoring Officer may ask for additional evidence, but the onus is on the complainant to ensure that all relevant information is provided.*
- Seriousness of the complaint – is the complaint trivial, vexatious, malicious, politically motivated, or ‘tit for tat’? Would the resources/cost involved in investigating and determining the complaint be disproportionate to the allegation if proven?*
- Duplication – Is the complaint substantially similar to a previous allegation or subject of an investigation by another relevant authority?*
- Length of time – Did the events or behaviour to which the complaint relates take place more than six months prior to receipt of the complaint. Does the time lapse mean that those involved are unlikely to remember matters clearly, or does the lapse of time mean that there would be little benefit in taking action.*
- Public Interest – Is the public interest served in referring the complaint further. Has the Subject Member offered an apology or other remedial action?*