

TITLE	Changes to the Constitution
FOR CONSIDERATION BY	Council on 21 February 2019
WARD	None Specific;
LEAD OFFICER	Deputy Chief Executive - Graham Ebers

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) that Section 4.2.9.7 Asking the Question at the Meeting [Council] and Section 5.4.31 Asking the Question at the meeting [Executive] be amended as set out in paragraph 1 of the report;
- 2) that Section 4.2.11 Motions on Notice be amended as set out in paragraph 2 of the report;
- 3) that Section 3.5.4.2 Debating a Petition at a Council Meeting be amended as set out in Appendix 1 to the report;
- 4) that Sections 6.3.29 Call In-6.3.36 Dispute be amended as set out in Appendix 2 to the report;
- 5) that Section 8.4 Licensing And Appeals Committee Procedure Rules be amended as set out in Appendix 3 to the report;
- 6) that Section 11 Officers be amended as set out in Appendix 4 to the report;
- 7) that Sections 1.6.4 Authentication of Documents and 13.3.3.2 Table – Acceptance of Tenders and Signing of Contracts be amended as set out in paragraph 7 and Appendix 5 to the 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 Constitution Review Working Group (CRWG) at their meeting on 4 February 2019.

Background

SECTION 4 - THE COUNCIL MEETING AND SECTION 5 - THE EXECUTIVE

1. Following the Extraordinary Council meeting on 24 January 2019 at which a member of the public asked questions on behalf of 14 other residents during Public Question Time, it was proposed that the process around members of the public asking questions on behalf of others, be reviewed. The Constitution Review Working Group proposed that members of the public should only be able to ask one question, either their own, in which case they could also ask a supplementary if they wished, or a question on behalf of another member of the public. If asking a question on behalf of another they could not submit a supplementary question.

The following changes are therefore proposed to Sections 4.2.9.7 Asking the Question at the Meeting [Council] and 5.4.31 Asking the Question at the meeting [Executive]. Changes are shown in bold italics.

4.2.9.7 Asking the Question at the Meeting [Council]

*'At the appropriate time, the Mayor/Chairman will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present he/she may nominate a person **who is not already asking a question at the meeting** to put the question on his/her behalf. Alternatively, the Mayor/Chairman may put the question on their behalf, or may indicate that a written reply will be given.'*

5.4.31 Asking the Question at the meeting [Executive]

*'At the appropriate time, the Chairman will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present he/she may nominate a person **who is not already asking a question at the meeting** to put the question on his/her behalf. Alternatively, the Chairman may put the question on their behalf, or may indicate that a written reply will be given.'*

2. The Constitution Review Working Group received information on the length of Motions on Notice submitted between November 2017 and November 2018 and considered whether Motions on Notice should be limited in length.

The following change is proposed to Section 4.2.11 Motions on Notice

4.2.11.1 Notice

'Except for motions which can be moved without notice under [Rule 4.2.12](#), written notice of every Motion, signed by the Member of the Council giving the notice must be delivered to the Chief Executive no later than 10.00am on the seventh working day before the meeting (excluding the day of the meeting). These will be dated and numbered in the order which they are received and will be open to public inspection.

*Only one Motion, **which should contain no more than 350 words**, may be submitted per Member per meeting. For the purposes of this Rule, e-signatures will be acceptable.'*

3. During the petition debate item at the Extraordinary Council meeting on 24 January 2019, concerns were raised about the process that was used to decide which petition Motion the Mayor accepted first if there was more than one proposal following a debate of a petition at a Council meeting.

Proposed amendments to Section 3.5.4.2 Debating a Petition at a Council Meeting, are attached at Appendix 1 to the report. The Constitution Review Working Group felt that the proposed amendments provided a fairer process for members of the public and Members.

SECTION 6 -THE OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE AND ITS COMMITTEES

4. Following the most recent scrutiny call in, Officers reviewed the call in process to determine whether any improvements could be made.

The proposed changes are to facilitate the call-in process particularly at times when call ins fall, as in the past, at peak holiday periods or near an Election and attendees may not be available or it is not appropriate to hold a meeting at a particular time.

Proposed amendments to Sections 6.3.29 Call In-6.3.36 Dispute, are attached at Appendix 2 to the report.

SECTION 8 – REGULATORY AND OTHER COMMITTEES

5. The Constitution Review Working Group reviewed proposed amendments to the Licensing and Appeals Committee terms of reference. The Committee had reviewed its terms of reference at its meeting on 13 November 2018. It is good practice to undertake periodic reviews of the Committee's terms of reference to ensure it continues to be relevant and up to date, and to ensure that members of the public understand the work of the Committee.

Proposed changes to the terms of reference (Section 8.4) are attached at Appendix 3 to the report.

SECTION 11 – OFFICERS

6. The Constitution Review Working Group considered a number of proposed amendments to Section 11 Officers, which are set out in Appendix 4 to the report.

Officer job titles and responsibilities had been updated throughout the section to reflect reorganisation following 21st Century Council.

The changes proposed to Sections 11.5.3, 11.5.4 and 11.6.5.3 relate to the dismissal and appointment of senior Officers. It is proposed that Full Council be required only to approve appointment to the roles required by the Local Authorities (Standing Orders) (England) Regulations 2001, namely the Head of Paid Service, Section 151 Officer and Monitoring Officer. This would then also align to Full Council's requirement to dismiss.

The changes proposed to Sections 11.5.7 to 11.5.9 and 11.6.5.5 to 11.6.5.9 relate to the strengthening of the decision making process around disciplinary and grievance matters relating to senior Officers.

SECTION 13 - PROCUREMENT AND CONTRACT RULES AND PROCEDURES AND SECTION 1 STRUCTURE AND RESPONSIBILITIES

7. The Constitution Review Working Group considered proposed amendments to Sections 1.6.4 Authentication of Documents and 13.3.3.2 Table – Acceptance of Tenders and Signing of Contracts, which are highlighted and set out below and in Appendix 5. The proposed changes will improve the efficiency of the procurement process. The Audit Committee will review the effect of this change in 6 months’ time.

1.6.4 Authentication of Documents

‘... Any contract with a value exceeding £50,000 entered into on behalf of the local authority in the course of the discharge of an Executive function shall be made in writing. ~~Such~~ **Contracts with a value less than £100,000 may** ~~must~~ either be signed by **one authorised** at least two officers of the authority or made under the Common Seal of the Council attested by at least one officer.’

A replacement Table 13.3.3.2 Acceptance of Tenders and Signing of Contracts is attached at Appendix 5 to the report.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council continues to face severe financial challenges over the coming years as a result of reductions to public sector funding and growing pressures in our statutory services. It is estimated that Wokingham Borough Council will be required to make budget reductions of approximately £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	£0	£0
Next Financial Year (Year 2)	£0	£0	£0
Following Financial Year (Year 3)	£0	£0	£0

Other financial information relevant to the Recommendation/Decision
There are no financial implications arising from this report.

Cross-Council Implications
None

List of Background Papers
The Council’s Constitution

Contact Madeleine Shopland	Service Governance
Telephone No Tel: 0118 974 6319	Email madeleine.shopland@wokingham.gov.uk