

# Agenda Item 22.

<b>TITLE</b>	<b>Changes to the Constitution</b>
<b>FOR CONSIDERATION BY</b>	Council on 18 July 2019
<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:

- 1) agree that the requirement for Licensing and Appeals Sub Committees to be politically balanced be removed.
- 2) agree the following changes to the Constitution as recommended by the Constitution Review Working Group:
  - a) that Section 2.2 Members' Allowances Scheme be amended as set out in Appendix 1 to the report;
  - b) that Section 4.2.1.1 Timing and Order of Business [Annual Council] be amended as set out in paragraphs 2 and 3 of the report;
  - c) that Section 4.4 [Wokingham Borough Wellbeing Board] be amended as set out in Appendix 2 to the report;
  - d) that Section 8.4.10 Licensing and Appeals Sub-Committee Procedure Rules be amended as set out in paragraph 5 of the report;
  - e) that Section 12.1.10 [Insurance, Risk and Opportunity Management] be amended as set out in Appendix 3 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 meetings on 2 April and 1 July 2019.

## Background

### SECTION 2 – COUNCILLORS

1. At its meeting on 2 April 2019 the Constitution Review Working Group considered proposed amendments to Section 2.2 [Members' Allowances Scheme] regarding the Independent Remuneration Panel following the agreement by Full Council on 21 March 2019 that the review of Members' Allowances should take place every 2 years instead of annually. It was also noted that the bicycle user mileage rate was above the HMRC rate and was therefore still a taxable benefit and that the mileage rate was not taxable and Nlable. Table 2.2.8 Councillors' Tax and Benefits has therefore been updated to reflect this. The revised sections can be found at Appendix 1. Changes are shown in bold italics and highlighted in grey.

### SECTION 4 - THE COUNCIL MEETING

2. At the Annual Council meeting on 22 May 2019 it was proposed that the Constitution Review Working Group review the practice of outgoing Executive Members answering Public Questions at the Annual Council meeting. Councillor Pittock proposed that Public Question Time at the Annual Council meeting should take place following the announcement of the new Executive and that questions be answered by the most appropriate new Executive Member.

At its meeting on 1 July the Constitution Review Working Group agreed that the Public Question Time should be moved on the agenda for Annual Council to after the election of Leader and notification of the Executive item. It was proposed that Items 4.2.1.1 h)-l) onwards therefore be reordered as follows:

#### 4.2.1.1 Timing and Order of Business [Annual Council]

- h) to receive the Returning Officer's Return of Councillors elected;***
- i) to receive any urgent announcements from the Mayor or Head of the Paid Service;***
- j) to elect the Leader of the Council (if applicable) and receive notification from the Leader of his/her Deputy and the remainder of the Members appointed to the Executive, the scope of their respective portfolios and the terms of delegation to them and officers if applicable. The Leader of Council / Executive Members will be allowed to speak for up to 10 minutes in total. The Leader of the Opposition will be allowed to speak for up to 5 minutes;***
- k) to deal with any questions from the public in accordance with Rule 4.2.9;***
- l) to receive petitions presented under Rule 4.2.19;***

3. At the Annual Council meeting the Constitution Review Working Group were requested to review whether the Chairmen and Vice Chairmen of the Overview and

Scrutiny Committees should in future be elected via secret ballot, as suggested in the 'Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities'.

Members were of the view that that the Chairmen and Vice Chairmen of the main Council committees should be elected by the individual committees immediately after Annual Council. The following amendments are therefore proposed.

#### **4.2.1.1 Timing and Order of Business [Annual Council]**

- r) to appoint at least one Scrutiny Committee, a Standards Committee and such other Committees and Boards as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions. ***[The Chairmen and Vice Chairmen of these Committees and Boards will be appointed for the following Municipal Year at extraordinary meetings of each Committee/Board which will be held immediately after Annual Council];***
- s) to decide the size and terms of reference of those Committees and Boards;
- t) to appoint Members to those Committees and Boards;
- ~~u) to appoint the Chairmen and Vice Chairmen for the following Municipal Year of those Committees etc, appointed under r) above from the names put forward by the Groups;~~

4. At its meeting on 1 July the Constitution Review Working Group considered and agreed proposed amendments to the Wokingham Borough Wellbeing Board terms of reference (Section 4.4) which had been agreed by the Wellbeing Board at its meeting on 11 April 2019. Proposed amendments are attached at Appendix 2.

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

5. It was agreed at Annual Council on 22 May 2019 that that the principles of proportionality be applied when Members were appointed to Sub Committees, Panels or Working Groups.

At its meeting on 25 June 2019 the Licensing and Appeals Committee had requested that the Constitution Review Working Group consider and subsequently recommend to Council that the requirement for all Licensing and Appeals Sub Committees to be politically balanced be removed. This would facilitate the establishment of the Sub Committees as and when required.

The Constitution Review Working Group agreed with this proposal at its meeting on 1 July. Members were of the view that every effort should be made to ensure that Sub Committees would be politically balanced where possible. The following amendment to the Licensing and Appeals Committee terms of reference is therefore proposed.

#### **8.4.10 Licensing and Appeals Sub-Committee Procedure Rules**

*Hearings held under the Licensing Act 2003 shall be considered by a Sub-Committee comprising three Members of the Licensing and Appeals Committee.*

*In accordance with the Licensing Act 2003 (Hearings) Regulations (as amended), all Hearings to determine applications under the Act shall be considered in accordance*

*with procedures agreed by the Licensing and Appeals Committee. Details of the procedure to be followed for each type of hearing will be circulated beforehand to all parties to the hearing. Procedures shall be based on the principles of natural justice and Article 6 of the Human Rights Act, the right to a fair hearing.*

***There is no requirement for Sub-Committees to be politically balanced. However, every effort will be made to ensure that wherever possible the Sub-Committees are politically balanced.***

## **SECTION 12 – FINANCIAL REGULATIONS**

6. At its meeting on 2 April 2019, the Working Group reviewed proposed changes to Section 12.1.10 Insurance, Risk and Opportunity Management which reflected the change in senior officer responsibilities following the earlier phases of the 21<sup>st</sup> Century Council programme. Proposed amendments are attached at Appendix 3.

### **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		

<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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