

TITLE	Changes to the Constitution
FOR CONSIDERATION BY	Council on 19 November 2020
WARD	None Specific
LEAD OFFICER	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) Section 4.1.1 Policy Framework be amended as set out in Appendix 1 and explained in Paragraph 1 of the report;
- 2) Section 4.2.17 Record of Attendance be amended as set out in Paragraph 2 of the report;
- 3) the Virtual Meeting Protocol (an Appendix to Chapter 4) be amended as set out in Paragraph 3 of the report;
- 4) the Virtual Meeting Protocol be amended as set out in Paragraph 4 of the report;
- 5) Section 5.1.9.2 be amended as set out in Paragraph 5 of the report;
- 6) Section 6.1.2.1 Substitutes be amended as set out in Paragraph 6 of the report;
- 7) the Local Code of Corporate Governance (Appendix 2 to the report and explained in Paragraph 7 of the report) be attached as an appendix to Chapter 9 Ethics and Corporate Governance;
- 8) that Section 13.3.1.1 Procurement Business Case (including options appraisal) be amended as set out in Paragraph 8 of 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 26 October 2020.

Background

SECTION 4 – THE COUNCIL MEETING

4.1.1 Policy Framework

1. At its meeting 26 October 2020, the Constitution Review Working Group considered proposals to amend the Policy Framework; policies which the Council has a statutory duty to take to Full Council, and those which Officers feel are of significant importance to the Council that they should also be included. Suggested amendments to the Policy Framework are set out in Appendix 1.

Attendance at meetings

2. The Working Group considered a proposal around the recording of attendance at virtual meetings. When physical meetings were held it was custom and practice for any Member who was in the meeting, but not participating, to be recorded in the minutes as “in attendance”. Having reviewed this it has been found that Councillors who attend a meeting of the Council of which they are not a member of, or participating in i.e. asking a Member question, representing residents, or if specifically invited, should not have their attendance recorded. The following amendment is therefore proposed (bold italics).

4.2.17 Record of Attendance

The Chief Executive or his/her representative will keep a record of Members’ attendance at meetings.

Only those Councillors who are members of a Committee, are asking a question or have been invited to participate in the meeting, will be recorded as being in attendance.

This will also apply to meetings of the Executive.

APPENDIX – PROTOCOL FOR HOLDING VIRTUAL MEETINGS

Voting at Virtual Meetings

3. At the previous Council meeting a number of Members inadvertently voted twice. The Working Group considered a number of different options as to how this could be addressed.

The Working Group were of the opinion that if a Member realises that they have inadvertently voted twice, they should be encouraged to speak and indicate how they wished to vote. If the Member did not speak up and the fact that they had voted twice was noticed by others, the Mayor or Chairman could ask how they had intended to vote.

The following change to the Virtual Meeting is proposed (bold italics):

7.7 Voting

Unless a recorded vote is called for voting will be carried out using one of the following methods:

- *the Mayor/Chairman will call out the name of each committee Member present asking them to state whether they are “for”, “against” or wish to “abstain”;*
- *if the Mayor/Chairman feels from the discussions that there is a consensus in how Members wish to vote he/she will state that they believe the committee wishes to vote in a particular way unless a Member advises them otherwise;*
- *use the “hands up” feature on MS Teams. This method will only be used if the majority of Members attending the meeting have access to and the ability to use this feature. Prior to any vote taking place the Mayor/Chairman will state that this method of voting will be used and ask those Members in attendance, who are entitled to vote, to advise him/her if they are unable to use the “hands up” feature. The vote will be carried out as follows:*
 - *The Mayor/Chairman will ask Members to use the “hands up” feature to show whether they are “for”, “against” or wish to “abstain”;*
 - *Between each of these votes Members must ensure that they put their “hands down” and that they don’t vote twice. **If a Member realises that they have voted twice, they should speak up and indicate which way they had intended to vote. If others present in the meeting become aware that a Member has voted twice but not spoken up, the Mayor will be informed and will ask the Member how they intended to vote;***
 - *Those Members who do not have the “hands up” feature will then be asked individually whether they are “for”, “against” or wish to “abstain”;*
- *use other electronic voting systems if available.*

4. The Working Group agreed to recommend that the section of the Virtual Meeting Protocol relating to meetings of the Planning Committee be amended to reflect that following the 6 July Council meeting, the Planning Committee had undertaken discussions to enable public participation in virtual Planning Committee meetings. Public speaking was now fully integrated into the most recent meetings. The following amendment is therefore proposed:

6. Specific Rules Relating to Member and Public Participation at Planning Committee Meetings

*6.1 ~~Only members of the Planning Committee and relevant Officers will be invited to attend Planning Committee meetings. The proceedings of the committee may however be viewed via the live stream on the Council’s YouTube channel.~~ **Public speaking rights specific to Planning Committee meetings are as set out in Section 8.2.5 (Public Speaking Rights), of the Constitution.***

*6.2 ~~Although~~ **If Ward Members, Town and Parish Councillors and members of the public will not be are unable to attend the meetings they will, in addition to any comments previously submitted, be able to provide a further statement to the committee. This can be done by following the instructions below.***

- ~~You must register your intention to submit a statement, which should not cover comments made previously, with~~ **The statement must be submitted to Democratic Services by 5pm the 10am on the 3rd working day prior to the committee meeting;**
- ~~Comments will be split into the following categories: Town and Parish Councils, Objectors, Supporters (including applicants and agents) and Ward Members. If you submit a statement within your category then it should be no more than 390 words (please note that 130 words equates to approximately 1 minute of speaking time). However, if more than one statement is received in any of the above categories, or another person has registered to speak at the meeting in the same category, you will be contacted by Democratic Services and asked to reduce your word limit accordingly. Statements must be received by 10am on the 2nd working day prior to the committee meeting;~~
- ~~The statement will be read out at the meeting by a member of the Committee~~ **committee will be provided with copies of any statements received and these will be taken account of when during the consideration of** ~~considering the relevant planning application.~~

SECTION 5 – THE EXECUTIVE

Section 5.1.9.2

5. Section 5.1.9.2 currently states that the Executive is responsible for agreeing Supplementary Capital or Revenue Estimates up to £500,000. There is, however, nowhere in the Constitution that states what happens to supplementary estimates which are over £500,000. Having consulted the Chief Finance Officer on the matter he is of the opinion that all supplementary estimates should be approved by the Executive. The Working Group agreed with this proposal and the following amendment is therefore proposed for clarification purposes.

5.1.9.2

The Executive is also responsible for implementing the budget and policy framework agreed by the Council. In doing so it will take decisions in accordance with this framework which are defined as local key decisions which:

- involve requests for Supplementary Capital or Revenue Estimates ~~up to~~ £500,000;*

SECTION 6 – THE OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE

6. Currently each Group has two substitutes per Overview and Scrutiny Committee, irrespective on how many Members it has on the Committee. At their meeting on 26 October, the Working Group considered a proposal that each Group be able to substitute any of their Members on a listed one-for one basis, for the Overview and Scrutiny Management Committee. Members felt that this should be extended to all of the Overview and Scrutiny Committees and the following amendment is therefore proposed.

6.1.2.1 Substitutes

*Two Substitute Members from each political group shall be appointed at Annual Council for the forthcoming Municipal Year. **Each political group will be entitled to the same number of substitutes as it has Members on the Committee.***

SECTION 9 – ETHICS AND CORPORATE GOVERNANCE

Local Code of Corporate Governance

7. The Working Group considered the Local Code of Corporate Governance, which had been previously considered by the Audit Committee at its meeting on 29 July 2020, and agreed that it should be recommended that it be included as an appendix to Section 9 Ethics and Corporate Governance.

The Local Code of Corporate Governance is attached at Appendix 2.

SECTION 13 PROCUREMENT AND CONTRACT RULES AND PROCEDURES

13.3.1.1 Procurement Business Case (including options appraisal)

8. The figures contained in the table below should align with the current OJEU Threshold Values which are fixed for a 2-year period and subject to change on the 1st January of every even year (i.e. 2020, 2022). These values are set out in Appendix One to Section 13 and are amended as and when required without the need to go through CRWG and Council.

In order to keep the table below up to date, without the need to go through the process of gaining Constitution Review Working Group and Council approval, it is proposed to add some additional wording to the table that will enable the figures to be amended as and when the OJEU Threshold Values are changed. The figures in the table have also been amended to reflect the current OJEU Threshold Values

	No formal business case required	Assistant Director and Director Approval	Executive Approval (see note 1 below)	Full Council Approval
Goods and Services	< £50k	£50k - £500k	> £500k	Annual Value >£5m or TAV
Schedule 3 Services	< £50k	£50k – £615k <u>£663k*</u>	> £615k <u>£663k*</u>	>£25m (if Capital >£15m)
Works	< £50k	£50k – £4,551k <u>£4,733k*</u>	> £4,551k <u>£4,733k*</u>	

*These figures are aligned to the OJEU Threshold Values (as set out in Appendix One) and will be amended as and when the Threshold Values change.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe funding pressures, particularly in the face of the COVID-19 crisis. It is therefore imperative that Council resources are focused on the vulnerable and on its highest priorities.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£0	Yes	Revenue
Next Financial Year (Year 2)	£0	Yes	Revenue
Following Financial Year (Year 3)	£0	Yes	Revenue

Other financial information relevant to the Recommendation/Decision

There are no financial implications associated with this report.

Cross-Council Implications

None

Public Sector Equality Duty

This report has had due regard to the public sector equality duty and where applicable and available has included information relating to impacts upon people with protected characteristics and inequality.

List of Background Papers

Council's Constitution

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