

TITLE	Changes to the Constitution
FOR CONSIDERATION BY	Council on 18 February 2021
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 Monitoring Officer via the Constitution Review Working Group:

- 1) that Section 5.1.11 Consideration of Other Matters Referred to the Executive be amended as set out in Paragraph 1 of the report;
- 2) that Sections 6.1.2, 6.2.1, 8.4.1, 8.6.1 8.7.1 and 9.1.1 be amended as set out in Paragraph 2 of the report;
- 3) that Sections 4.2.9.5 Scope of questions [Council – Public Questions], 4.2.10.5 Scope of questions [Council – Member Questions], 5.4.29 Scope of questions [Executive – Public Questions] and 5.4.37 Scope of questions [Executive – Member Questions] be amended as set out in Paragraph 3 of the report;
- 4) that Section 12 Financial Regulations Appendix A – Statement of Material Decisions, be amended as set out in Appendix 1 to the report;
- 5) that amendments be made to Section 13 Procurement and Contract Rules and Procedures, as set out in Appendix 2 to the report;
- 6) that amendments be made to Section 13 Procurement and Contract Rules and Procedures, 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 discussed by the Constitution Review Working Group (CRWG) at their meeting on 1 February 2021.

Background

SECTION 5 - EXECUTIVE

5.1.11 Consideration of other items by the Executive

1. There is no longer a requirement for the Executive as a body to agree its forward programme within a meeting of the Executive. It is therefore proposed that 5.1.11 Consideration of Other Matters Referred to the Executive, be amended as follows. The Executive Forward Programme would continue to be agreed by Executive Members and be published on the Council's website within the required time periods.

5.1.11 Consideration of Other Matters Referred to the Executive

The Executive shall be responsible for:

- ~~d) approving for publication a Forward Programme of Executive business, comprising at least four months work and to be published at least one month in advance of the start of the period the programme covers;~~
- ~~d-e) taking the lead role in reviewing and implementing action in respect of the performance of all Council services;~~
- ~~e-f) considering reports from the Overview and Scrutiny Committees;~~
- ~~f-g) receiving quarterly reports monitoring the Council's budgets.~~

Committees

2. In order to achieve political balance across all committees it is sometimes necessary to amend the size of certain committees at Annual Council. It is proposed to remove reference to the specific number of Members on a committee so that changes to the Constitution are not required should the size of a committee be amended in future to meet the requirements of political proportionality.

The following amendments are therefore proposed:

6.1.2 Membership of the Overview and Scrutiny Management Committee

*The Overview and Scrutiny Management Committee shall comprise ~~42~~ non-Executive Members of the Council appointed at the Annual Council Meeting subject to the rules of Political Balance. **The size of the Committee will be as agreed by Council.***

6.2.1 Appointment of Overview and Scrutiny Committees

The Council shall establish the following Overview and Scrutiny Committees:

- a) *Children's Services Overview and Scrutiny Committee - ~~8~~ Members*
- b) *Community and Corporate Services Overview and Scrutiny Committee - ~~8~~ Members*
- c) *Health Overview and Scrutiny Committee - ~~10~~ Members*

The size of the Committees will be as agreed by Council.

8.4.1 Function and Composition of the Licensing and Appeals Committee

*The Licensing and Appeals Committee is composed of 14 Members of the Authority appointed annually by the Council. **The size of the Committee will be as agreed by Council and appointments shall be subject to the rules of political balance.***

8.6.1 Function and Composition of the Personnel Board

*The Personnel Board ~~is shall comprise seven Members of the Authority,~~ appointed by the Council in accordance with the rules of political balance. **The size of the Board will be as agreed by Council.***

8.7.1 Function and Composition of School Transport Appeals Panel

*The School Transport Appeals Panel shall ~~comprise of a pool of six Members of the Authority,~~ be appointed by the Council in accordance with the rules of political balance. **The size of the Appeals Panel will be as agreed by Council.***

9.1.1 Composition and Membership [Standards Committee]

At the Annual Council meeting the Council will establish a Standards Committee which will be composed of:-

- a) ~~six~~ elected Members of Wokingham Borough Council, the composition of which will be subject to the rules of Political Balance **and as agreed by Council. Only and only one of those elected Members can be a Member of the Executive...***

Scope of Questions

3. It is proposed that it be clarified that a question can be rejected if it is substantially the same as a question which has been put at or submitted to the meeting or a meeting of Council, Executive and other Committees, in the last 6 months. The following amendments are therefore proposed.

4.2.9.5 Scope of questions [Council – Public Questions]

The Chief Executive and/or Mayor/Chairman may reject a question if it:

- c) is substantially the same as a question which has already been put at **or submitted to** the meeting or at a meeting of the Council **or Executive or any other Committee, in the past six months;***

4.2.10.5 Scope of questions [Council – Member Questions]

The Chief Executive and/or Mayor/Chairman may reject a question if it:

- c) is substantially the same as a question which has been put at **or submitted to** the meeting or at a meeting of the Council **or Executive or any other Committee in the past six months;** or*

5.4.29 Scope of questions [Executive – Public Questions]

The Chief Executive and/or the Leader may reject a question if it:

- c) is substantially the same as a question which has already been put at **or submitted to** the meeting or at a previous meeting of the Council or Executive **or any other Committee in the past six months;***

5.4.37 Scope of questions [Executive – Member Questions]

The Chief Executive and/or Leader may reject a question if it:

- c) *is substantially the same as a question which has been put at **or submitted to** a meeting of the Council **or Executive or any other Committee** in the past six months;*

SECTION 12 FINANCIAL REGULATIONS

4. It is proposed that Appendix A – Statement of Material Decisions be updated for clarification purposes and to make it easier to use. The proposed revised Appendix A – Statement of Material Decisions, is attached at Appendix 1 to the report.

SECTION 13 PROCUREMENT AND CONTRACT RULES AND PROCEDURES

Removal of EU and related references in Procurement and Contract Rules and Procedures (PCRP) in light of end of UK Transition Period

5. The PCRP were written and updated to align with the PCR 2015, which in turn were subject to the relevant EU legislation. As of 31st December 2020, 23:00 hours, the UK left the European Union. Although a Trade Deal has been achieved and updated UK regulations are likely to follow, current guidance from the UK Central Government at this time merely replaces EU-relevant references with UK-relevant ones as outline in policy notes. As such, officers have proposed a number of minor changes to reflect the new commercial position that the UK has moved into. All changes relating to the updates of the references to OJEU/FTS, and further explanation, are laid out in Appendix 2 to the report. Changes are shown in bold italics or struck through.

Further changes may be required in time once subsequent guidance has been provided from Central Government.

8. Officers have also proposed a number of additional amendments to Section 13 Procurement for clarification purposes. These, and further explanation, are set out in Appendix 3 to the report. Amendments are shown in bold italics or struck through.

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

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