

<b>TITLE</b>	<b>Changes to the Constitution</b>
<b>FOR CONSIDERATION BY</b>	Council, 23 March 2023
<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**

- 1) That Council agrees the following changes to the Constitution, as recommended by the Monitoring Officer via the Constitution Review Working Group:
  - a. that Rules 4.2.9.7 Asking the Question at the Meeting and 4.2.9.8 Supplementary Question be amended as set out in paragraph 1 of the report;
  - b. that Rule 5.2.4.2 Scheme of Delegation to the Executive be amended as set out in paragraph 2.1;
  - c. that it be noted that Rule 5.2.10.24 [Responsibilities of Executive Member for Environment, Sport and Leisure] will be amended as set out in paragraph 2.2 of the report;
  - d. that Rule 8.1.1 [Planning Committee terms of reference] be amended as set out in paragraph 3 of the report;
- 2) That Council agree the Employee Assistance Provider Scheme be made available to all Members (as detailed in paragraph 4 of the report);
- 3) That Council notes that the size of the Constitution Review Working Group will increase to five Members, two of which shall be members of the Opposition;
- 4) That Council agree the amendments to the Audit Committee terms of reference as set out in Appendix 1 of the report noting that the changes will come into effect from the new municipal year with the exception of the responsibility for approving the Council's statement of accounts which will remain with the Audit Committee until clarification of the appropriate Council body to sign future statement of accounts has been provided to Council

## **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 several areas in the Constitution which were agreed by the Constitution Review Working Group (CRWG) for recommendation to the Monitoring

Officer, at their meetings on 3 February 2023, and by the Audit Committee at their meeting on 1 February.

## **Background**

### **1. Chapter 4.2 – Council Rules of Procedure**

Nine Council meetings of Full Council have been scheduled during the 202/23 municipal year, and concluding all the business on the agendas has not always been possible due to time constraints and the amount of business. The Working Group considered benchmarking information from the other Berkshire local authorities around the frequency and content of their Council meetings to ascertain whether changes could be proposed which may expedite the Council meeting process.

The following amendment is proposed.

#### **4.2.9.7 Asking the Question at the Meeting [Public Questions]**

*At the appropriate time, the question will be displayed on the screen within the meeting room, and the relevant Member will provide an answer. If the member of the public wishing to ask a question is not present, a written answer will be provided following the meeting.*

***This also applies to Member questions.***

~~*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 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.*~~

#### **4.2.9.8 Supplementary Question**

*A questioner who has put a question **attended the meeting** in person **or virtually**, may also put one supplementary question without notice to the Member who has replied to his/her original question but must not include any substantial new subject matter. A supplementary question must arise directly out of the original question or the reply. The Mayor/Chairman may reject a supplementary question on any of the grounds in Rule 4.2.9.5 or if he/she feels that new subject matter is being introduced. No person asking a supplementary question shall speak for longer than one minute. If the Mayor/Chairman considers that the questioner is making a statement he/she may rule that the questioner be not heard further.*

### **2. Chapter 5.2 – The Executive – Composition and Areas of Responsibility**

2.1 The Working Group discussed the Executive areas of responsibility and agreed that the Executive was collectively responsible for a number of different areas and that these were addressed in a corporate manner in addition to via the individual specific portfolios. The following amendment is proposed to further highlight this:

#### **5.2.4 Scheme of Delegation to The Executive**

*Subject to the general reservation of powers to the Council, the Terms of Reference of the Executive shall be as follows and it shall have delegated authority to exercise and perform the Powers and Duties of the Council in relation to the following functions.*

##### **5.2.4.2 Policy Formulation and Development**

- a) *to exercise overall responsibility for the corporate working of the Council and its performance **including areas allocated to specific Executive Member portfolios**;*

2.2 Rule 5.2.10.24 [Executive Member responsibilities – Executive Member Environment, Sport and Leisure) currently states:

*To develop and manage the Council's approach to:*

- *Travellers*
- *Flytipping*
- *Vermin*
- *Noise*
- *Bonfires*

It is proposed that this be amended as follows:

*To develop and manage the Council's approach to:*

- ~~*Travellers*~~
- ~~*Flytippping*~~
- ~~*Vermin*~~
- ~~*Noise*~~
- ~~*Bonfires*~~
- **Anti Social Behaviour**
- **Community Safety**
- **Crime Reduction**
- **Prevent**

### 3. 8.1.1 Planning Committee terms of reference

The Working Group considered a request to update the terms of reference of the Planning Committee.

The following amendments are proposed –

#### 8.1.1

*The Planning Committee will carry out functions relating to town and country planning, highways and public rights of way as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) save for those contained in Part III of the Wildlife and Countryside Act 1981 and those which have not been delegated to the Assistant Director **Planning Place and Assistant Director Delivery and Infrastructure**. The Planning Committee will determine ~~planning~~ applications **for planning permission** where the recommendation is to be as follows: -*

- a) *Approval of new full applications falling into the 'major' category defined by Government with the exception of **1) minerals and-or waste proposals** (see 'e' below) **and 2) sites which have an area of 1 hectare or more but the proposal is for 9 or less dwellings, engineering operation or the erection of a means of enclosure. For clarification, "new full applications" excludes variation (S73 and 73A) and reserved matters applications.***
- b) *Approval of any matter the Committee has resolved it wishes to consider.*

- c) *Approval of the total or substantial demolition of Listed Buildings.*
- d) *Raising no objection to consultations from other Authorities where such proposals would significantly affect the Borough.*
- e) *Approval of applications for the creation of new Minerals and/or Waste sites.*
- f) *Approval of major departures from the Development Plan.*
- g) *Approval of applications where there is a legal agreement with a financial contribution which is contested by the applicant.*
- h) *Approval of applications submitted by or on behalf of a Borough Councillor.*
- i) *Approval of applications from, by or on behalf of (either solely or jointly with any other party) the Borough Council **for schools** which give rise to the employment of any more staff or pupils; or involves a net increase in development of more than 100 sq m. of floorspace **at a school**.*
- j) *Determination of any application not in the above categories at the discretion of the **Assistant Director Planning** ~~Director Place and Growth or the Lead Specialist Development Delivery or the Lead Specialist Development Management and Enforcement.~~*
- k) *Approval of applications by or on behalf of a member of staff that has a role or involvement in the planning process, eg anyone working in the Planning or Property sections or a member of the Corporate Leadership Team.*
- l) *Applications where the Ward Member(s), or consultations where the affected Ward Member(s), wish(es) the item to be 'listed'. This is conditional in that the listing must: -*
  - i) *Be in writing and within 21 days of the notification letter;*
  - ii) *state whether it applies if the recommendation is to ~~permit~~ **approve** or refuse (not both); and*
  - iii) ***be accompanied by provide a material planning reason for the request doing so.***
  - iv) ***in the case of householder applications, the Ward Member must first discuss the application with a planning officer (i.e. before the 21 day deadline)***

#### 4. Employee Assistance Provider Scheme

A Members question was asked at the Executive meeting on 26 January regarding whether the Employee Assistance Provider Scheme was open to Members, and the matter was referred to the Constitution Review Working Group for consideration. Clarification was sought from the Assistant Director Human Resources who indicated that the scheme could be made available to Members, and that there would be a modest cost of approximately £300 to do so. It is recommended that this take effect and that all Members be advised that they could make use of the Employee Assistance Provider Scheme.

## 5. Constitution Review Working Group – size

The Constitution Working Group discussed the size of the Working Group and agreed that the size of the Constitution Review Working Group should be increased to five, that two members should be members of the Opposition, and the terms of reference be amended accordingly. The Constitution Review Working is not included in the Council's political balance calculations.

## 6. 4.4 Audit Committee terms of reference

At its meeting on 1 February 2023, the Audit Committee considered proposed amendments to its terms of reference in line with the latest CIPFA guidance, published October 2022. Proposed amendments to come into effect in the new municipal year are attached as Appendix 1 to the report. Council is asked to note that further clarification is being sought from CIPFA as to whether Council should be the appropriate body to approve future statement of accounts. This clarification will be brought back to Council in due course.

### 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)	£300	Yes	Revenue
Next Financial Year (Year 2)	£300	Yes	Revenue
Following Financial Year (Year 3)	£300	Yes	Revenue

#### Other financial information relevant to the Recommendation/Decision

£300 for Employee Assistance for Members.

#### 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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