

Report To:	COUNCIL	Date:	16 MAY 2019
Heading:	ANNUAL CONSTITUTION REVIEW		
Portfolio Holder:	LEADER		
Ward/s:	N/A		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

To report proposed changes to the Constitution and supporting documents.

Recommendation(s)

To consider and approve the proposed changes to the Constitution.

Reasons for Recommendation(s)

To ensure that the Council's Constitution remains up to date and fit for purpose, it is reviewed annually.

Alternative Options Considered

Do not update the Constitution. However, this would not be best practice and would reduce the value of the document, both to the Council and the wider Community as an authoritative guide to how the Council works.

Detailed Information

Constitution Review 2019

It is good practice to review the Constitution regularly and it is the Council's practice to carry out a review annually.

The proposed changes were presented to the Standards and Personnel Appeals Committee on 18 March 2019. The comments of the Committee (and any subsequent changes which have been made) are set out below:

Members of the committee considered the proposed changes to the Constitution and made the following suggestions:

- That questions submitted by the public to be answered at Council by a Portfolio Holder should be answered by the relevant Portfolio Holder for the subject matter, and not by another nominated Portfolio Holder (included in the report)
- That a Councillor who is not part of a political group may be substituted by another ungrouped Councillor at Committee meetings (included in the report)
- That if alternative arrangements are proposed and approved for tenant participation and scrutiny that tenant activity with regard to scrutiny of housing matters be reported to the Overview and Scrutiny Committee (included in the report)

Not all Members of the Committee were supportive of changing deadlines for Member Questions to 7 clear working day timeframe.

Members of the Committee were also supportive of the proposal to bring the public speaking procedure for Planning Committee into the Constitution and for the procedure to be amended to enable members of the Planning Committee to ask questions of speakers. Members were however in agreement that it was essential that any questioning of speakers was tightly controlled with regards to time and the number and relevance of questions asked by members of the Planning Committee.

The proposed changes to the Constitution are outlined below:

Part of the Constitution	Proposed Amendments
Part 1 – Summary	No changes.
Part 2 – Articles	No changes.
Part 3 – Functions and Delegations	<p>Licensing – Minor amendments made to the wording of the delegation of Licensing functions to the Chief Executive/Interim Director of Place and Communities to remove duplication and delegations that are not relevant for Ashfield i.e. for London Boroughs only.</p> <p>Planning – The delegations from Planning Committee to the Chief Executive/Interim Director of Place and Communities have been amended so that the delegated authority for these functions is given to the Chief Executive/Assistant Director Planning and Regulative Services to reflect the Assistant Director Planning and Regulative Services’ position as the Council’s most senior planning professional.</p> <p>Audit Committee Terms of Reference – in accordance with Financial Regulation requirements and as a result of an audit report recommendation, to include the “<i>responsibility for ensuring effective scrutiny of the Treasury Management Strategy and policies</i>”</p>

	<p>Local Plan Working Group – terms of reference have been included.</p>
<p>Part 4 – Rules of Procedure</p>	<p>Council Procedure Rules</p> <p>Ordinary Meetings - Insert an item of business for Ordinary Meetings: <i>“(x) Receive updates from Members of the Cabinet on their Portfolio activity within a maximum time allocation of 30 minutes;”</i></p> <p>Questions by the Public – insert “11.9 – Response – A response may be given by the Member to whom it has been put, or by the relevant portfolio holder.”</p> <p>Questions by the Public and Questions by Members – amend the deadline for receipt of questions from 11.3 <i>“noon 7 clear working days before the day of the meeting”</i> and 13.4 <i>“4pm, 2 clear working days before the meetings”</i> to <i>“noon, 7 clear working days before the meeting”</i>. This amendment is proposed in order to that all deadlines for questions and motions are the same, thus avoiding confusion.</p> <p>Substitution of Members at Meetings – it has been proposed to amend 27.6 to include <i>“Substitute Members shall be from the same political group as the ordinary Member they are substituting for.”</i> This has been suggested to ensure the political balance of the Committee is maintained which is not the case if a member of a different political group attends as a substitute.</p> <p>Access to Information Procedure Rules No changes.</p> <p>Budget and Policy Framework Procedure Rules No changes.</p> <p>Executive Procedure Rules No changes.</p> <p>Overview and Scrutiny Procedure Rules -</p> <p>Removal of the requirement to appoint two non-voting tenant representatives to the Overview and Scrutiny Committee for the consideration of housing related issues (subject to confirmation by the Director of Housing and Assets). This is subject to introducing alternative, more suitable arrangements for tenant participation and scrutiny as part of the Housing Green Paper proposals.</p> <p><i>Insert – “Any tenant activity with regard to scrutiny of housing matters will be carried out by the existing Tenants Gateway and reported to the Overview and Scrutiny Committee as required”.</i></p> <p>Minor wording amendments to add clarity regarding the process of setting the scrutiny work plan.</p>

Amendments to the pre-call in procedure to add clarity, ease of understanding and to confirm that only call in requests that have followed all of the steps required by the procedure would be accepted.

Minor amendments to the order of business/meeting procedure for the Overview and Scrutiny Committee to ensure consistency with the procedures of other committees.

Financial Regulations

Additional paragraph briefly explaining the role of the Audit Committee.

A.26 – Accounting Policies - additional wording – *“These are considered annually by the Audit Committee.”*

A.28 – Annual Statement of Accounts – additional wording – *“... in accordance with the current Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice...”*

B.8iv. – Budget Monitoring and Control – additional wording to explain what a Supplementary Estimate is – *“A Supplementary Estimate is a budget increase greater than that already approved by Council at the annual budget setting meeting.”*

B.10 – Virement – additional wording – *“Re-allocation of budgets following service reviews does not constitute virement.”*

B.12 – Use of Reserves – additional wording – *“Where external funding/contributions are made available to support specific projects/schemes, regardless of value, these funds can be accessed without consideration of the above financial limits. In these instances an Officer Decision Record (ODR) will be completed.”*

C.24 – Banking Arrangements – additional wording – *“No payment is to be made by the Council via Direct Debit without the relevant mandate having first been authorised by the Corporate Finance Manager.”*

Code of Procedures Relating to the Disposal of Land and Buildings –

Amendments made to reflect new job titles and management structure.

Amendments also added to provide clarity and remove any potential area for doubt in the application of the procedure.

Contract Procedures Rules

No changes.

Employment Procedure Rules

No changes.

Part 5 – Members’ Code of Conduct	Minor amendment clarifying that attendance at, or completion of, any identified mandatory training will contribute towards the performance element of Members basic allowance.
Part 6 – Member/Officer Protocol	No changes.
Part 7 – Allowances	References to the minimum wage have been amended to living/minimum wage and amounts amended to April 2019 figures. The Members Basic Allowance and Schedule 1 detailing the amounts of Special Responsibility Allowances payable to be amended to reflect the annual salary increase for local government staff.
Part 8 – Management Structure	Revised Management Structure Chart as of July 2018 inserted.
Part 9 – Employees Code	Additional guidance added on interactions between staff and customers/service users. Additional guidance added regarding photographs of employees and how these photographs will be used.
Part 10 – Planning Code	Minor amendments to text to reflect the new management structure with references to Service Manager being replaced with Assistant Director Planning and Regulative Services. Minor textual and formatting amendments to improve clarity and readability. It is also proposed that the Code be amended to enable speakers to be the questioned by Members to clarify points raised by speakers. The “Have your say on Planning applications” document has been brought into the Constitution as an appendix.

A copy of the amended Constitution (with track changes) can be accessed [here](#).

Implications

Corporate Plan:

The Council will strive to ensure effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

Legal:

In accordance with Article 13 of the Constitution, the Monitoring Officer is responsible for keeping the Constitution under review. The Monitoring Officer is delegated the authority to make minor

alterations to the Constitution or make amendments to reflect in year changes. Substantive changes to the Constitution must be approved by the Council.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
Not updating the Constitution on a regular basis would increase the risk of failing to reflect current legislation and practices which would negatively impact decision-making.	Ensuring the Council’s Constitution remains up to date and fit for purpose it is reviewed annually.

Human Resources:

There are minimal HR implications as outlined in the body of the report with regard to minor changes to the Code of Conduct for Employees.

Equalities:

There are no specific equalities issues highlighted in the report or apparent at this stage in relation to proposed changes.

Other Implications:

None

Reason(s) for Urgency

Not Applicable

Reason(s) for Exemption

Not Applicable

Background Papers

None

Report Author and Contact Officer

Ruth Dennis
DIRECTOR OF LEGAL AND GOVERNANCE (MONITORING OFFICER)
r.dennis@ashfield.gov.uk
01623 457009