

SLOUGH BOROUGH COUNCIL

REPORT TO: Council
DATE: 18 May 2023

CONTACT OFFICER: Stephen Taylor, Monitoring Officer
(For all Enquiries) Sarah Wilson, Head of Legal

WARD(S): All

PART I **FOR DECISION**

REVIEW OF THE COUNCIL'S CONSTITUTION

1. Purpose of Report

As part of the Council's governance workstream, the Council is continuing to improve its governance processes to ensure lawful, fair and transparent decision making.

The report seeks approval for amendments to the constitution as part of its annual review. The changes are mainly housekeeping to reflect changes in legislation, avoid duplication or contradictions between different sections of the constitution and to reflect the new 4 year election cycle. In addition, the Council's overview and scrutiny arrangements were reviewed by members following a report by the Centre for Governance and Scrutiny (CfGS). The recommendations of CfGS included formation of a single committee focused on corporate improvement and these recommendations were broadly supported and included in this review.

2. Recommendation(s)/Proposed Action

Council is recommended to:

1. Consider and adopt the amendments set out in the appendices namely:
 - a. The Articles – changes to the Introduction and Articles 2, 4, 5, 6, 7, 8, 9A, 11, 12, 14, 15 and 17.
 - b. Responsibility for Functions – Parts 3.2, 3.4, 3.6, 3.7, 3.8.
 - c. Procedure Rules – Parts 4.2, 4.5, 4.7.
2. Note the intention to review those parts of the Constitution highlighted in Appendix 1 later in 2023, following consideration by the member working group on the constitution.
3. Agree that the amendments to the Constitution will come into effect on the day following the Council meeting.

3. Council priorities

The Constitution is central to ensuring accountability in the delivery of all priority outcomes set out in the Council's recovery plan and the emerging corporate plan. Having an up to date and accurate constitution is critical to improving the Council's governance processes and will allow existing and new officers, elected members and the public to understand how decisions are made.

4. Other Implications

(a) Financial

There are no financial implications of the proposed action.

(b) Risk Management

The Council is legally obligated to keep its constitution under review and ensure that officers and members comply with it. Failure to comply with the constitution could render decisions unlawful, as well as failing to meet requirements in relation to public transparency.

The executive decision making arrangements, officer scheme of delegation and financial and contract procedure rules have been subject to review and amendment in the last two years. In addition the Council adopted the model code of conduct for members in 2021 and has updated its policy statement on corporate governance and whistleblowing code. However, it is clear that some parts of the constitution have not been formally reviewed for some years and this has resulted in some parts having been superseded by changes in law. In addition it is important that the constitutional rules are clearly drafted and consistently interpreted. Some elements of the constitution have been added over time, are contradictory with other elements or do not appear in the most appropriate section. The re-drafted sections should provide clarity and consistency.

(c) Legal Implications

Under Section 37 of the Local Government Act 2000, the Council is required to prepare and keep up to date a document, referred to as the Constitution, which contains as a minimum:

- (i) The Council's Standing Orders
- (ii) The Council's Code of Conduct for Members; and
- (iii) Such other information as the Secretary of State directs – under the Local Government Act 2000 (Constitutions)(England) Direction 2000 this information includes the membership, terms of reference and functions of the Council's Committees and Sub-Committees, and any rules governing the conduct and proceedings of those Committees and Sub-Committees.

Subject to those provisions, it is for the Council to decide what information its Constitution should contain.

The Council's constitution contains a large number of rules and procedures and is broadly split up in the following way:

1. The Articles
2. Responsibility for functions
3. Procedure rules
4. Ethical framework
5. Members' allowances

The annual review has focused on those elements of the constitution that have not been reviewed in the last two years, as well as updating the overview and scrutiny

arrangements to respond to the external review of scrutiny and statutory direction to improve the scrutiny function.

The Council operates a Leader and Cabinet model of governance, which means that many policy decisions are a matter for Cabinet to determine. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 sets out the functions which cannot be the responsibility of the executive. These functions are either reserved to full council or delegated to a committee, sub-committee or single officer. Certain matters, including the policy framework and budget, are reserved to full council. The policy framework is set out in legislation and has changed over time and in addition there are some policies such as the council tax support scheme, that must be approved by full council in accordance with specific legislation. These legislative requirements are complex and ensuring the constitution is kept up to date will avoid the wrong decision-making body approving a policy or budgetary matter.

Changes have been made to the chief officer employment rules to reflect the complex and changing legislation, particularly in relation to dismissal procedures for the three statutory governance officers. The Council has fully complied with these legislative requirements, however the rules in the constitution had not been updated to clearly reflect the different roles of the committees and panels required.

The constitution contains a new section permitting the Monitoring Officer to make housekeeping changes which will be reported to Full Council at the next available meeting and requiring that the constitution is formally reviewed at least annually. This is good practice and should ensure that the constitution stays up to date and that senior officers are asked about improvements and amendments on a more regular basis.

(d) Equalities Implications

Having a clear, up to date constitution will assist the Council to make fair and lawful decisions. Whilst the amendments do not specifically relate to the Equality Act duties, the changes do ensure an appropriate level of transparency, including for officer level decisions. Amendments to the Standing Advisory Council for Religious Education, Corporate Parenting Panel and Overview and Scrutiny Committee ensure that these panels continue to operate within the law and best practice and where possible representatives from different faiths are permitted a voice on panels.

5. **Supporting Information**

The Articles

The changes to the articles are “housekeeping” type changes. The detail of each change is set out in Appendix 1 and each section of the articles is appended to show the changes.

Part 3 – Responsibility for Functions

This part sets out which member body is responsible for each function of the Council as well as a scheme of delegation for officer decision-making. Most of the changes are “housekeeping” type changes, although the corporate parenting panel changes are more substantial to reflect the results of an external review, best practice and the views of the new statutory director of children’s services.

Part 4 – Procedure Rules

This part sets out how formal meetings are to be run, elected member and public rights in these meetings and rights to access information. Most of the changes are “housekeeping” type changes, but the overview and scrutiny procedure rules have been subject to significant changes to reflect the move to a single committee system and use of task and finish groups.

Part 5 - The Ethical Framework

This part is not subject to any changes at this time. Appendix 1 confirms the status of each section and the plans for future review.

6 Comments of Other Committees

A working group of members did review the proposed changes to the overview and scrutiny arrangements and the amendments reflect their views. It was not practicable for the Member Working Group on the Constitution to be consulted on the proposed changes due to the time needed to conduct the review and the timing of the election. As the proposed changes are either housekeeping or relate to Overview and Scrutiny, it was not thought necessary to delay the submission of this report on that account.

It is intended to convene a meeting of the member working group on the constitution when proposing future changes.

6. Conclusion

Approval of the constitution is a matter for Full Council. The majority of changes are as a result of changes in legislation and the Monitoring Officer and Head of Legal have worked together to review each section to ensure compliance with the law and good governance.

8. Appendices Attached

- ‘1’ - Constitution status update
- ‘2’ - The Articles
- ‘3’ - Part 3 – Responsibility for Functions
- ‘4’ - Part 4 – Procedure Rules

9. Background Papers

None.