



<b>REPORT OF:</b>	CHIEF EXECUTIVE AND THE MONITORING OFFICER
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<b>TO:</b>	STANDARDS COMMITTEE
<b>DATE:</b>	9 FEBRUARY 2011

<b>WARD (S) AFFECTED:</b>	N/A
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<b>SUBJECT:</b>	<b>REVIEW OF THE CONSTITUTION</b>
<b>RECOMMENDATION:</b> That the revised Constitution, circulated separately to the report, as being recommended to Council on 10 February 2011 be endorsed.	
<b>REASONS FOR RECOMMENDATION:</b> To ensure that the Constitution of the Council reflects the latest legislative framework and provides the Council with legal and effective decision making processes.	
<b>SUMMARY:</b> The Council has adopted a new Leader and Cabinet model, as required by legislation. This model comes into effect after the Council elections on 5 May 2011. As a result of the new model a number of changes need to be made to the Executive decision making arrangements within the Constitution. The opportunity has also been taken to carry out a wider review of the Constitution to address a number of additional aspects to improve governance arrangements. A review of the Scheme of Delegation will be the subject of a separate report to the Executive in March 2011. The revised Constitution was considered by the Executive on 27 January 2011 and is now being recommended for adoption by Council at its meeting on 10 February 2011.	

<b>The above recommendation can be adopted by the Committee.</b>
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## STATUTORY POWERS

1. Section 37 of the Local Government Act 2000 requires the Council to prepare, keep up to date and publicise a Constitution.
2. The Local Government and Public Involvement in Health Act 2007 required the Council to amend the Leader and Cabinet model that carries out the Executive

decision making within the Council. As result of that statutory change the Constitution also requires amendment.

3. Under its Terms of Reference, changes to the Council's constitution are subject to the approval/endorsement of the Standards Committee.

### **Current Constitution**

4. The current Constitution was originally adopted in 2001, as the Council moved from the Committee system to an Executive model of governance with a Leader and Cabinet responsible for Executive functions.
5. The Constitution was based upon the guidance and model developed by the Department for Transport, Environment and the Regions and the Local Government Association.
6. Since then the Constitution has been revised to reflect additional requirements and duties from a range of legislation and guidance, some of the most significant of which are the :
  - Licensing Act 2003
  - Gambling Act 2005
  - Local Government and Public Involvement in Health Act 2007
  - Local Democracy, Economic Development and Construction Act 2009
7. These additional requirements have created a more complex Constitution. The incremental changes have resulted in considerable duplication across the different sections. Experience of operating with the Constitution for nearly 10 years has also highlighted some areas for improvement.

### **Requirement for Change**

8. On 30 September 2010, a special meeting of the Council resolved to move to a 'new style' Leader and Cabinet model of Executive governance, as required by the Local Government and Public Involvement in Health Act 2007.
9. This model of governance includes a different legal framework for Executive decisions. As a result, the Constitution of the Council requires amendment to reflect these processes.
10. The opportunity was also taken to review the Constitution to propose improvements in light of experience and reduce the complexity and duplication caused by incorporating the legislative changes described in paragraphs 5 and 6.

### **Summary of Changes**

11. The revised Constitution has been circulated separately to the report and agenda. A 'track change' version has also been placed in the Members Room, which shows the changes that are proposed.

12. Changes are proposed throughout the document, but are summarised in the following table:

Area of the Constitution	Proposed Change
All	<ul style="list-style-type: none"> <li>➤ Amended to reflect new Executive arrangements</li> <li>➤ General review to provide for a more logical layout for example consolidated Executive Procedural Rules and reduced duplication</li> </ul>
Member Code of Conduct / Article	<ul style="list-style-type: none"> <li>➤ Reference to agreed Member role descriptions included.</li> </ul>
Budget and Policy Framework Rules	<ul style="list-style-type: none"> <li>➤ Significant simplification - Level 1, 2 and 3 criteria removed and replaced with a policy framework consisting of core plans only - Community Plan, Corporate Plan, DPDs, Licensing Statement, Crime Reduction Strategy, Treasury Management Policy Statement and Treasury Management Strategy.</li> <li>➤ Clarity of policies that require Member approval</li> <li>➤ Reduced requirement for two stage Executive approval - Portfolio Holder to approve consultations and single report for adoption</li> <li>➤ Overview and Scrutiny Committee able to select policies that are appropriate for scrutiny review</li> <li>➤ Duplicate references to call in procedure removed</li> </ul>
Key decision definition	<ul style="list-style-type: none"> <li>➤ Increased key decision threshold to £250k, in line with thresholds within Contract Procedure Rules</li> </ul>
Management Structure	<ul style="list-style-type: none"> <li>➤ Removed chart from Constitution</li> <li>➤ Moved responsibility for approving senior management structure to Head of Paid Service</li> </ul>
Urgent decision making	<ul style="list-style-type: none"> <li>➤ Chief Executive authorised to take emergency decisions</li> </ul>
Changes to the Constitution	<ul style="list-style-type: none"> <li>➤ Removed requirement for changes to go through Executive; i.e. can go direct from a Committee, where appropriate</li> </ul>
Executive and Overview and Scrutiny Committee	<ul style="list-style-type: none"> <li>➤ Consolidated Procedure Rules</li> <li>➤ Simplified terms of reference for Overview and Scrutiny Committee</li> </ul>
State of the Borough Debate	<ul style="list-style-type: none"> <li>➤ Removed requirement for annual debate (this does not preclude a debate taking place)</li> </ul>
Employment Procedure Rules	<ul style="list-style-type: none"> <li>➤ Updated to refer to Personnel policies and amend disciplinary procedure</li> </ul>

Area of the Constitution	Proposed Change
Scheme of Delegation (To follow in separate report)	<ul style="list-style-type: none"> <li>➤ Major review and separation of Executive functions leading to creation of a Leader's scheme of delegation</li> <li>➤ Incorporating mechanisms for individual Member decision making (should these be desired).</li> <li>➤ Consistent level of Delegation to Heads of Service (with power for Chief Executive and Directors to exercise all delegated functions except where specific provisions apply)</li> <li>➤ Inclusion of some additional/amended delegations required</li> </ul>

### LEGAL IMPLICATIONS

13. The Council must adopt a revised Constitution before the 'new style' Leader and Cabinet model comes into effect after the Council elections on 5 May.
14. The review has been undertaken by Legal and Democratic Services to ensure the revised Constitution provides a full and effective framework for the Council's decision making structures.

### FINANCIAL IMPLICATIONS

15. There are no direct financial implications arising from this report. However, the new arrangements offer the potential for more efficient decision making within the Council.

### EQUALITIES IMPLICATIONS

16. There are no equalities implications arising from this report. The changes are not considered to adversely affect any particular group.

### CONSULTATION

17. Comments were sought from all Councillors and Heads of Service regarding any areas of the Constitution that would benefit from review. All comments were considered in the development of the proposed revised Constitution.

### POLICY FRAMEWORK

18. The Constitution sets out the Budget and Policy Framework. The proposed revisions include a simpler budget and policy framework. These changes remove duplication and will provide a clearer framework for Councillors and Officers in the development, scrutiny and approval of policies.

**Background Papers:** Constitution (track change version) is available in the Members Room

