

SIGNED OFF BY	Interim Head of Paid Service
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TO	Council
DATE	2 nd December 2021
EXECUTIVE MEMBER	Leader of the Council

KEY DECISION REQUIRED	N
WARDS AFFECTED	(All Wards);

SUBJECT	Report of the Monitoring Officer on a Review of the Council's Constitution.
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RECOMMENDATIONS
(i) That the changes to the Constitution set out in Annex 1 be approved.
REASONS FOR RECOMMENDATIONS
An updated Constitution provides certainty of officer decision making roles and responsibilities.
EXECUTIVE SUMMARY
This report enables the administrative updating of the Constitution, including any recent legislative and regulatory requirements.
The above recommendations may be approved by Full Council.

STATUTORY POWERS
1. Express powers of delegation are found in sections 101-102 of the Local Government Act 1972 and, in relation to executive functions, in sections 9E-

9EB of the Local Government Act 2000. Local authority schemes of delegation are published pursuant to section 100G of the 1972 Act.

2. A local authority is under a duty to prepare and keep up to date its Constitution under s.9P Local Government Act 2000 as amended.

BACKGROUND

3. Organisational and regulatory change impacts on the Council's constitution, requiring frequent review and adjustment to ensure that it is maintained, and offers certainty to Members, Officers and the Public.

KEY INFORMATION

Review and Revision of the Constitution

4. Article 15 of the Constitution sets out that changes to the Constitution will only be approved by the Full Council (by way of recommendation or direct report), subject to the Monitoring Officer agreeing with the proposed changes.
5. The Monitoring Officer led and facilitated the review and agrees with the proposed changes.
6. Accessibility has been achieved through adopting a modern and corporate style, ensuring the format meets website accessibility standards, publishing on the Council's website in easy to use sections and embedding hyperlinks throughout the document to enable efficient and quick navigation

Incorporating Changes in the Constitution

7. Provision 13.3.1 of the Constitution states that the Monitoring Officer will maintain an up-to-date version of the Constitution.

LEGAL IMPLICATIONS

8. This report enables the discharge of the statutory duty to maintain the Constitution of the Council. Certainty of decision-making roles is fundamental to good governance.

FINANCIAL IMPLICATIONS

9. Certainty of Financial Decision making will be enhanced by the changes recommended to Procedure Rule 7 set out at Annex 1 (Finance) to this report.

EQUALITIES IMPLICATIONS

10. Equality Objective 4 2020-2025 sets out that "*equality considerations are clearly presented as part of the Council's formal decision-making process*" – the Constitution enables the Head of Corporate Policy to oversee the manifestation of the Equality Objectives throughout the decision-making process.

COMMUNICATION IMPLICATIONS

11. The changes, if adopted will be formatted as necessary into the Constitution and published on the Council's website.
12. A communications plan will be used to ensure effective communication to officers and members about the changes and implications, including an updated section on the Knowledge (staff intranet) and Modern.Gov (for use by officers and members).

RISK MANAGEMENT CONSIDERATIONS

13. Strategic Risk 4, *Organisational Capacity and Culture*, will, in part, be mitigated by an updated Constitution.

CONSULTATION

14. Management Team, Heads of Service, Corporate Governance Group (CGG) and the Governance Task Group (GTG) were consulted during the review;

POLICY FRAMEWORK

15. The *Organisation Priority* of the Corporate Plan '*Reigate and Banstead 2020 -2025*' sets out that the Council will operate in an efficient and rigorous way, make the best use of its assets, and consider commercial opportunities. The updated Constitution provides efficiency and certainty of decision-making roles and responsibilities in the delivery of the Corporate Plan Objectives.

BACKGROUND PAPERS

1. The current [Constitution of the Council](#)
2. [Draft new look Constitution](#)

Annex 1

Summary of Changes to the Constitution, as recommended by the Monitoring Officer

	Paragraph or Section of the Constitution	Subject	Change Proposed	Reason for change
General and Committees				
1.	Whole Documents	Chief Executive (CE)	Delete references and replace with Head of Paid Service	Senior management restructure
2.	Whole Document	Head of Paid Service (HOPS)	Review use of term to ensure accuracy and consistency.	There are numerous errors or inaccuracies in the document.
3.	Whole Document	Modern.Gov	Remove references to E-members	Modern.Gov replaced E-Members
4.	Standards Committee	Standards Committee membership	Remove reference to independent persons	To ensure accurate and up to date description.

	Paragraph or Section of the Constitution	Subject	Change Proposed	Reason for change
5.	Part 3b Officer Scheme of Delegation General Paragraphs: 1.17	Regulation of Investigatory Powers Act 2000	Replace Head of Service with responsibility for legal with Authorised Officers (AO) and Senior Responsible Officer (SRO)	Updates the authorisation process for directed surveillance.
Finance				
6.	Procedure Rule 7	Financial Procedure Rules	Whole of Procedure Rule 7 has been updated	The proposed new version of Procedure Rule 7 better reflects the current financial arrangements at the Council. Several parts were either out of date or had significant gaps.

	Paragraph or Section of the Constitution	Subject	Change Proposed	Reason for change
7.	Part 3b Officer Scheme of Delegation Paragraphs 1.7, 2.1 ,2.3, 2.5, 2.6, 2.8, 2.9, 2.12, 2.25 (b), 2.34, 2.35, 2.36, 2.37, 3.6, 5.12, 5.15, 5.20, 5.23, 5.24, 5.37, 6.16, 7.20, 9.8,	Consultation with Chief Financial Officer (CFO)	To include CFO as a consultee 2.12 – change reference to para 6.5 of PR6 to PR7 (Financial Procedure Rule 7 – Virements)	To ensure CFO (and MO where appropriate) is consulted before a decision is made.
8.	Part 3b Officer Scheme of Delegation Paragraphs: 1.18, 2.28,	Public Sector Audit Appointments, Partnership funds	Officer with delegated responsibility changed from Head of Finance to CFO (remove requirement for consultation)	To ensure CFO is the decision maker.

	Paragraph or Section of the Constitution	Subject	Change Proposed	Reason for change
9.	Part 3b Officer Scheme of Delegation Paragraphs: 2.13	Recovery of debts	To add HOS with responsibility for Revenues and Benefits to have delegated authority	To ensure both the CFO and HOS for Revenues and benefits have delegated authority.
10.	Part 3b Officer Scheme of Delegation Paragraphs: 2.17, 2.18, 2.38, 6.14, 6.15	Capitalised expenditure, Money Laundering Regulations Equality Policy Early or flexible retirement	Wording changes	To ensure accurate reflection of current financial practices.
11.	Part 3b Officer Scheme of Delegation Paragraphs: 2.24	Annual accounts, Charity Commission	To add consultation with MO and EM with responsibility for finance as a requirement before a decision is made.	To ensure the MO and EM with responsibility for finance are consulted before a decision is made.

	Paragraph or Section of the Constitution	Subject	Change Proposed	Reason for change
12.	Part 3b Officer Scheme of Delegation Paragraphs: 2.25	Section 106 expenditure	Wording changes – replace “financial services” with “CFO”	Outdated wording. This change ensures the CFO confirms there is sufficient funding before decisions are made.
13.	Part 3b Officer Scheme of Delegation Paragraphs: 2.26	Corporate Plan Delivery Fund Reserve	Wording changes – replace “financial services” with “CFO” To add MO, CFO and Directors as consultees.	To ensure these officers are consulted before decisions are made.
14.	Part 3b Officer Scheme of Delegation Paragraphs: 2.29	Submission of Government funding bids	To distinguish between bids of below £20,000 and above £20,000. For bids over £20,000 to add a requirement for consultation with HOPS, Directors, CFO and MO.	To ensure these officers are consulted before decisions are made.

	Paragraph or Section of the Constitution	Subject	Change Proposed	Reason for change
15.	Part 3b Officer Scheme of Delegation Paragraphs: 2.30, 2.31	Disposal of redundant or obsolete assets/stock	Insertion of two paragraphs.	To ensure these activities are covered by delegated authority and appropriate consultation is carried out.
16.	Part 3b Officer Scheme of Delegation Paragraphs: 2.32, 2.33	High Street Innovation Fund Reserve Business support Scheme Reserve	Deletion of these two paragraphs	These schemes no longer exist.
17.	Part 3b Officer Scheme of Delegation Paragraphs: 9.8	Negotiating and entering into contracts (Theatre, producers, artists)	To add consult CFO and MO as consultees.	To ensure these officers are consulted before decisions are made.

	Paragraph or Section of the Constitution	Subject	Change Proposed	Reason for change
18.	Part 2 Articles of the Constitution, Article 4 The Council	Policy Framework, Budgets and Virements	Wording changes to paragraphs 4.1.1 4.1.2 6.5	To ensure accurate reflection of current financial practices.
Planning and Development				
19.	Part 3b Officer Scheme of Delegation Paragraphs: 1.31, 1.32, 1.33	Community Right to Bid (Assets of Community Value)	To transfer delegated power from HOS for Development Management to HOS for Legal and Governance.	