

SUBJECT:	Constitution
MEETING:	Council
DATE OF REPORT:	18 May 2023
DIVISION/WARDS AFFECTED:	All

1. PURPOSE

1.1 To consider the updated MCC Constitution.

2. RECOMMENDATIONS

2.1 Council approve the reviewed and updated Constitution.

3. KEY ISSUES

- 3.1 Local Authorities operate under myriad laws and similarly exercise a raft of legal powers. The purpose of the Constitution is for Council to determine how it wishes the organisation to function.
- 3.2 Fundamentally that means Council setting out the standards that it expects, the ways in which business will be conducted, the architecture of the organisation and the delegation of the powers that the Council has to enable effective and expedient decision making.
- 3.3 The Monitoring Officer is delegated authority to make editorial and legal changes to the Constitution and has committed to bringing the document to Council each year to inform Council of any changes that have been made. Substantive amendments still require Full Council approval regardless.
- 3.4 Appendix 1 sets out the record of changes. Changes fall into 4 predominant categories:
- a. feedback received from discussions in meetings. This generally stems from seeing the constitution in use within the conduct of meetings and issues identified either by the Monitoring Officer or raised with him by a Member, Officer or committee;
 - b. Council or committee decisions that change the nature of the constitution;
 - c. legislative change;
 - d. editorial.

4. EQUALITY AND FUTURE GENERATIONS EVALUATION (INCLUDES SOCIAL JUSTICE, SAFEGUARDING AND CORPORATE PARENTING)

4.1 The nature of the document is to create the framework for the organisation's conduct and decision making, rather than a specific decision, so there are no specific equality, socio economic or future generations impacts identified.

5. OPTIONS APPRAISAL

5.1 The legislative changes have to be included as a matter of law. Changes that relate to Council decisions have to be included but may be amended in the future following a further Council report and decision.

6. RESOURCE IMPLICATIONS

6.1 There are no costs identified as part of the review.

7. CONSULTEES

7.1 The proposed changes were discussed in Democratic Services Committee on [20 Mar 23](#) where the discussion focussed largely on the changes to SCARE. A number of proposals resulted from the meeting and from Councillors thereafter that have either been incorporated or, if not, an explanation given as to why. SACRE discussed the matter at the meeting on [8 Mar 23](#) but was not quorate.

7.2 Additional briefings have been offered/delivered to Cabinet and Group Leaders. SLT have also been copied.

8. AUTHOR

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Appendices:

1. Record of Changes
2. Constitution May 2023

Appendix One – Record of Changes

Format

1. The Constitution is split into 6 'Parts':
 - a. Part 1 – Introduction. What the constitution is, how it should be used, and how to get involved;
 - b. Part 2 – Articles of the Constitution. The architecture – Councillors, Committees, roles and everything that makes up the organisation;
 - c. Part 3 – Responsibility for Functions. Where decision making powers lie and how they are delegated;
 - d. Part 4 – Rules of Procedure. How are meetings conducted, how is information accessed, budget and policy setting, the rules applicable to the Executive and to Select Committees and financial, contractual and employment rules;
 - e. Part 5 – Codes and Protocols. Code of Conduct, standards expected of Officers, bribery and corruption, disclosure of information, whistleblowing etc;
 - f. Part 6 – Schedule of Members' Remuneration.
3. Each part is split into sections, subsections, paras and sub-paras split thus:
4. Section.
 - 4.1 Sub-section.
 - 4.1.1 Para.
 - (a) Sub-para.
 - (i) Sub-para.
 - (1) Sub-para.
5. Sections and sub-sections are hyperlinked in the contents page.

Changes

6. The table below seeks to set out the changes made since the last Council report. A track changed version of the document is available.

Section, Subsection or Para	What	Notes
Various	Removal of references to Chairman	Replaced by Chair as per gender neutral tone of whole document
2.2.1	Number of Councillors	Amended to 46
3.2	Definitions	SACRE changed to SAC
3.3.5	Interpretation	A line included to encompass amendments and post-Brexit legislation as being inherently applied to any quoted Act or Instrument throughout the document
4.2.1(a)	Voting Age	Changed to 16+ from 18 (for local elections)
4.3	Petitions	Some editorial changes to make the process clearer. Links to the MCC e-petition tool and to Scrutiny Committee guidance included.
9.6.1	Delegation of Executive Functions	Area Committees added as per the commentary set out below at section 12 Area Committees
10.1.1	SACRE	Renamed as SAC and changes to representation etc made to represent the change in the legal terms of reference. Key change is the inclusion of non-religious philosophical convictions and a representative therein.
12	Area Committees	<p>The current definition of Area Committees is legally incorrect.</p> <p>This section has been amended to reflect the legal definition of Area Committees as per s18 LGA00 – essentially, that they are an executive function to establish for the purposes of the exercising of executive powers within a defined geographic area.</p> <p>This is a narrower definition and so provision is made for the creation of Area Forums that seeks to retain some of the possible purposes that were previously set out in the Constitution.</p> <p>However, the onus for such committees is switched from a Council decision to requiring the process to be led by the ward Members of the relevant geographic area such that they can be established and run in accordance with local need.</p> <p>Additionally, recognition is given to the fact that both above functions are heavily skewed to the leadership and decision making of County Councillors, rather than enabling community led engagement or allowing bespoke, flexible arrangements to be established to enable geographically specific engagement as we have seen take place organically.</p>
14.1.2	Chief Officer Functions and Responsibility	Facilities and Fleet and Special Projects replaced by Decarbonisation, Transport & Support Services.
21.1.1	SACRE	Changes in line with those made to 10.1.1
21.1.1 and 33.8.2	Governance and Audit Committee	Recognising that the GAC undertakes, on Council's behalf, the approval of the final statement of accounts.
22.1.3	Local Choice Functions Table	<p>Additional clarity applied to the appointment of Councillors to representative office or roles not already covered by the provisions of the AGM.</p> <p>This has been clarified to provide consistency around appointments for roles such as Council 'Champions'.</p>

26.3.2(h)	Delegations to CO C&P	Recognition of the need to act within the suite of policies relating to energy and decarbonisation.
26.5.2	Delegations to CO CYP	Various deletions as legislation has lapsed or been amended (as per SAC changes above)
26.6.2(s)	Delegations to Monitoring Officer	Nominate MO as a 'qualified person' as required by the FOI Act 2000
27.1.2	Amendments to Reports	A clarification that statutory reports to note (eg CO SCH or CO CYP annual reports that are required by law) cannot be subject to amendment by Council.
27.13.3	Amendments to Reports	<p>A change to the discretion that the Chair can apply to the notice rule. It has been changed from the complexity of seeking a Council vote on the matter to a simpler approach that simply seeks the approval of the relevant Cabinet Member responsible for the report.</p> <p>The rationale is that amendments to reports should be very rare given that a report (unlike a motion) contains a significant amount of information. When it is appropriate to suggest an amendment, it should be possible to do so with notice to the HODS and so the relevant report owner given that the report will have been publicly available for 5 working days before the meeting.</p> <p>However, in the even rarer instance that an amendment becomes pragmatic in the course of a discussion in Council, rather than seek a vote on the matter, the Chair will simply seek the approval of the relevant Cabinet Member to accept an amendment. If the Cabinet Member refuses, then the option remains for the proposer and supporters of the amendment to simply vote the report recommendations down.</p>
27.14.5	Urgent Motions	Urgent motions have always been reference in 27.14.1 but no guidance provided on how they might be submitted and accepted. This addition seeks to make it a 2-step process that resides with the Monitoring Officer and Chair.
27.22	Motions	Chair's discretion as applicable to 27.22 now extended to 27.15 and 27.17
27.27.6	Voting	Amended to reflect recent practice in making use of the roll call for votes that has a difference of 2 or fewer. Where this is done, the numbers of the vote will be recorded in the minutes (but not named unless there is a request for a recorded vote.)
27.29.1	Attendance	Simple change to note that the Dem Services Officer will make a note of attendance.
29.	Budget and Policy Framework	<p>Clarification that the review/reconsider process and return to Council only applies to the budget process, not all policies.</p> <p>Consultation period updated from a 6-week requirement (which has not been practised for a number of years) to a minimum 3-week period. The expectation is that the convention of a 4-week consultation will continue.</p> <p>Because of the timing of the WG announcement on the indicative settlement of LAs in December, and the legal duty to have set the budget by 11 Mar each year, a 6-week consultation cannot be realistically incorporated into the available time.</p>
39.8.1	Scrutiny Pre-meetings	Time changed from 15mins to typically 30mins before