



Council – 23 May 2024

AMENDMENTS TO THE CONSTITUTION

Report of Director of Corporate and Customer Services (Monitoring Officer)

Report Author and Contact Details

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Wards Affected

District-wide

Report Summary

This report details a series of proposals to amend the Constitution of the Council to ensure that it is up to date. The accelerant to this work has been the deletion of the Director of Regulatory Services post and the sharing of responsibilities to other officers in the structure. During the process of updating the Constitution other minor amendments have been identified and are proposed for agreement.

Recommendations

1. That Part 2 (Article 9) be amended to incorporate reference to Statutory Officers Group and not, Senior Management Team, in addition to removal of references to the post titled Corporate Director;
2. That Part 3 (Responsibilities for Functions) of the Constitution be amended to:-
 - a. Remove all references to the Vision Derbyshire Joint Committee and its Terms of Reference to be replaced by the D2 Strategic Leadership Board and its Terms of Reference;
 - b. Incorporate Gypsy and Travellers, Empty Homes and the Housing Allocations Policy into the Terms of Reference for Community and Environment Committee;
 - c. Remove references to the Director of Regulatory Services and share those delegations amongst other designated officers;
 - d. Make minor amendments throughout the document to ensure accuracy and clarity;

- e. To amend the Biodiversity Sub Committee to the Biodiversity Working Group;
3. That Part 4 (Rules of Procedure) of the Constitution be amended to reflect updated rules on substitutes for Committees or Sub Committees, allowing for additional substitutes to be made available.
4. That Council endorses the Constitution Working Group to undertake a programme of work in which to refresh the Constitution and deliver upon the Council's priority of a 'thriving local democracy'.

List of Appendices

- Appendix 1 Draft Part 2 of the Constitution (Articles of the Constitution)
- Appendix 2 Draft Part 3 of the Constitution (Responsibility for Functions)
- Appendix 3 Draft Part 4 of the Constitution (Rules of Procedure)

Background Papers

Not applicable

Consideration of report by Council or other committee

No

Council Approval Required

Yes

Exempt from Press or Public

Yes

Amendments to the Constitution

1. Background

- 1.1 The Council is required to maintain and publish a Constitution, in accordance with Section 9P of the Local Government Act 2000, setting out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent, and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
- 1.2 The Constitution is the cornerstone of the Council which enables decision making and sets out responsibilities for the discharge of functions, as well as the rights of Members and the public in engaging with and participating in the governance of the authority.
- 1.3 As such, it is a living document and changes can be made (on recommendation from other Council bodies or the Monitoring Officer) where circumstances or the Council's priorities have changed, where the Council wishes to change the way it carries out its services and functions.
- 1.4 It is good practice to keep the Constitution under regular review.

2. Key Issues

- 2.1 This part of the report sets out the various updates and proposed amendments.
- 2.2 Minor amendments have been identified to ensure accuracy within Part 2 to make references to Statutory Officers Group and not Senior Management Team. This is in addition to removing the Corporate Director post from the Constitution as that post, whilst it remains on the establishment, is not presently occupied. Those amendments are identified in **Appendix 1**.
- 2.3 Following the retirement of the Council's Director of Regulatory Services, and the deletion of the post from the establishment, changes were needed in which to share delegated functions to other officers.
- 2.4 When reviewing a document of this scale, opportunities are often taken in which to correct errors or make other, subtle improvements to accuracy, clarity and readability. This extends to further clarifying the role of Community and Environment Committee in respect of Gypsy and Travellers, empty homes and housing allocations and to incorporate the D2 Strategic Leadership Board into the Constitution following Council's endorsement of the terms of reference at its meeting on 25 January 2024. Those are identified in **Appendix 2**.
- 2.5 At the Annual General Meeting in 2023, the new administration established two new sub-committees. One of those was the Biodiversity Sub-Committee.
- 2.6 Following discussions with Group Leaders in respect of political balance and proportionality, it was endorsed to recommend to Council that the

Biodiversity Sub Committee be converted to a working group. Whilst the structure of the group will change, the focus, commitment and senior officer support to that group will not. This change is identified in **Appendix 3**.

- 2.7 Further to feedback from some political groups on the restrictive nature of substitutions provisions, a change to the wording has been suggested in which to increase the amount of substitutes that political groups can nominate and ultimately endorse by Council.
- 2.8 The suggested change is designed to provide each political group with the opportunity to suggest a number of substitutes that is equal to the number of seats they have on a Committee or a minimum of three substitutes. For example, if the Conservative Group have four seats on a Committee, they are able to nominate four substitutes. For example, if the Green Group have one seat on a Committee they are able to nominate three substitutes.
- 2.9 The purpose of this change is to create a greater pool of substitutes across all Committees and Sub Committees and afford even greater flexibility to the smallest Group of the Council to ensure they can be represented. The wording proposed is as follows and can be found in **Appendix 3**: -

For each Committee or Sub Committee, the Council will appoint substitutes equal to the number of ordinary seats that a Group holds on Committee or Sub Committee with a minimum of three Substitutes per Group'.

- 2.10 As we move into the new municipal year, officers are anticipating changes to procurement rules and how this translates into the Council's Financial Regulations and Contract Standing Orders. This could lead to significant proposals to change the Council's Constitution.
- 2.11 This is in addition to the priorities identified within the Council's Corporate Plan around the delivery of the 'thriving local democracy theme' which include outstanding actions in which to revisit the council's petitions scheme and the role of area forums.
- 2.12 The Constitution Working Group have a clear role to play in determining and delivering on these priorities and to that end, the Group will be convened to meet in due course.

3 Options Considered and Recommended Proposal

- 3.1 An alternative option would be to not approve the proposals that have been recommended and make no changes to the Constitution. This is not recommended as the document needs update to reflect the circumstances that the Council is currently operating within.
- 3.2 The recommended option is to approve the proposed amendments to the Constitution to ensure that the authority continues to operate good, robust and up to date governance arrangements.
- 3.3 This report does not deal with all matters that require review within the Constitution. These matters include outstanding recommendations to review

and update the Petition Scheme and review the arrangements for Area Community Forums. Other issues have arisen such as the roles of working groups and sub committees and could form part of the Constitution Working Group's programme of work for the year ahead.

4 Consultation

4.1 The Constitution Working Group and the Leader and Deputy Leader of the Opposition were offered a briefing with the Monitoring Officer and two Members, Cllrs Dobbs and Hughes were briefed on changes.

4.2 The Senior Management Team of the Council (all Directors and Managers) have been engaged over the course of the last two months in which to share amendments to the Constitution. This has been particularly relevant for updates to Part 3.

5 Timetable for Implementation

5.1 The proposed amendments to the Constitution would take effect immediately in the event of the recommendations in this report being approved. The Monitoring Officer is accountable for the implementation of any decisions to amend the Constitution.

6 Policy Implications

6.1 The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Therefore, the Constitution supports delivery of all the priorities described in the Corporate Plan.

7 Financial and Resource Implications

7.1 There are no specific financial or resources implications arising from the body of this report save as for robust governance arrangements to ensure that the Council is making informed and documented decisions, thereby reducing risk to the Council. The financial risk is therefore assessed as low.

8 Legal Advice and Implications

8.1 Under Section 9P of the Local Government Act 2000 (the 2000 Act), local authorities must prepare and keep up to date a Constitution, which must also be made available to the public. The Council's Constitution follows a standard format as recommended by the former Department of the Environment, Transport and the Regions (DETR) in 2001, as part of the implementation of the 2000 Act.

8.2 Changes to the Constitution are matters reserved to the Council to determine. As a result, the adoption of amendments to the Constitution must be agreed by Council. The legal risk associated with the recommendations in this report is assessed as low.

9 Equalities Implications

- 9.1 There are no particular implications arising from the amendments that are proposed. Members are reminded of their duties under the Equality Act 2010 when exercising their functions to have regard to the need to eliminate discrimination against and promote equality for persons with a protected characteristic. When decisions are made in accordance with the Constitution such implications will be referred to as necessary.

10 Climate Change Implications

- 10.1 There are no climate change implications associated with the recommendations in this report.

11. Risk Management

- 11.1 The regular review and amendment of the Constitution is a key mitigation to address broader risks of challenge to decisions and the procedures underpinning those decision making processes. This report is in itself a mitigation to any risks that may arise.

Report Authorisation

Approvals obtained from Statutory Officers:-

	Named Officer	Date
Chief Executive	Paul Wilson	15/05/2024
Director of Resources/ S.151 Officer	Karen Henriksen	14/05/2024
Monitoring Officer (or Legal Services Manager)	Helen Mitchell	14/05/2024