

AGENDA MANAGEMENT SHEET

Report Title:	Constitution Review and update
Name of Committee:	Council
Date of Meeting:	20 November 2024
Report Director:	Monitoring Officer
Portfolio:	Finance and Performance, Legal and Governance
Ward Relevance:	All
Prior Consultation:	None
Contact Officer:	Aftab Razzaq Chief Officer Legal and Governance; Ian Hunt Senior Legal Officer
Public or Private:	Public
Report Subject to Call-In:	No
Report En-Bloc:	No
Forward Plan:	No
Corporate Priorities:	This report relates to the following priority(ies): <input type="checkbox"/> Rugby is an environmentally sustainable place, where we work together to reduce and mitigate the effects of climate change. (C) <input type="checkbox"/> Rugby has a diverse and resilient economy that benefits and enables opportunities for all residents. (E) <input type="checkbox"/> Residents live healthy, independent lives, with the most vulnerable protected. (HC) <input checked="" type="checkbox"/> Rugby Borough Council is a responsible, effective and efficient organisation. (O) Corporate Strategy 2021-2024 <input type="checkbox"/> This report does not specifically relate to any Council priorities but
Summary:	<p>The proposed amendments to the Council Constitution represent an initial phase of the review and modernisation of the document.</p> <p>They reflect on best practice and expediency for the operation of the Council.</p>

Financial Implications:	There are no financial implications from this proposal outside of existing budgets as they relate to the ongoing functions of the Council.
Risk Management/Health and Safety Implications:	The introduction of best practice will enhance the process and mitigate the risk of challenge to the Council. There are no direct Health and Safety implications, beyond the existing processes for meetings of committees.
Environmental Implications:	There are no environmental implications for this proposal, as it is purely administrative in its nature.
Legal Implications:	The Council has a statutory duty to have, and maintain its constitution, the specific legal implications of proposals are set out in the report.
Equality and Diversity:	There are no material impacts on any protected characteristics from the proposals.
Options:	The options considered are set out in the body of the report.
Recommendation:	<p>(1) The Constitution of the Council be amended to incorporate the changes set out in Appendix 1 to the report; and</p> <p>(2) the Monitoring Officer be authorised to make such typographical amendments as required to facilitate this.</p>
Reasons for Recommendation:	To support the ongoing management and development of the Constitution.

Council - 20 November 2024

Constitution Review and update

Public Report of the Monitoring Officer

Recommendation

- (1) The Constitution of the Council be amended to incorporate the changes set out in Appendix 1 to the report; and
- (2) the Monitoring Officer be authorised to make such typographical amendments as required to facilitate this.

Executive Summary

This report outlines proposed recommendations and changes to the Council's Constitution. In addition, this report is part of a full-scale review of the Constitution, and as detailed within this report, it is anticipated that this will be completed by the end of the municipal year.

This review ensures that the Council is able to have a constitution that accords with legislative updates and overall best practice. Importantly, it will support the Council towards achieving its corporate objectives in terms of strong governance and effective decision making.

The Council's Constitution Working Group has been consulted in respect of the proposed recommendation and will provide a pivotal role in the overall review.

1. Background:

1.1. The Council has a statutory duty to maintain and update the Constitution. Although there have been periodic updates to the Constitution it has become apparent that there are various areas where updating and amendment are required to ensure that the document fully reflects legal changes and best practice. This report is the first of a sequence over the coming months where officers working with the Constitution Review Group intend to review the whole document.

1.2. As part of the review process, it is intended to reduce duplication, simplify the overall structure and make the document more accessible. Particularly making use of electronic linking and referencing.

1.3. This report highlights a number of areas where an initial review of the Constitution has highlighted that changes can be made easily to make substantive updates to ensure compliance with legal obligation as well as introducing best practice.

1.4. These amendments were considered by the Constitution Working Group and recommended to Council.

2. Issue1: Appointments to Cabinet and Committees

2.1. Further to the annual meeting and the subsequent appointment of the Leader and committees there are a number of changes which are consequential in terms of updating Cabinet appointments within the Constitution.

2.2. In addition, in looking at the process of appointing committees there are some anomalies which can be addressed which would increase flexibility for the Council moving forward.

2.3. Cabinet:

2.3.1. The statutory position within the Local Government Act 2000, is that the Leader may appoint up to nine others to form their cabinet to make a total cabinet of 10. The Constitution currently has different figures for the number of potential Cabinet members. It is recommended that this is harmonised to the statutory position.

2.3.2. It should be noted that the powers of the Executive are not granted by Council, but are defined by the statutory provisions, it is recommended that this is also reflected in the Constitution.

2.3.3. The Cabinet having been appointed does not reflect the existing published Constitution. The Cabinet (and the functions that portfolio holders have) is a matter for the Leader and is not subject to Council determination. Accordingly, it is proposed to reflect the changes as set out in this report. It is worth noting that the functions of portfolio holders are purely rearranged from the existing list within the relevant section of the Constitution.

2.4. Appointments to Committees

2.4.1. The Constitution currently restricts Cabinet members from sitting on any non-cabinet committee, including the regulatory committees. This restriction is reasonable and supported by the legislation in respect of Scrutiny and the Audit and Ethics committees. There is, however, no corollary for the regulatory committees.

2.4.2. Whilst the functions of the regulatory committees are by their nature non-executive, there is no requirement that executive members cannot sit on these. It should be noted that they would not have any executive powers when sitting and would be acting as any other member.

2.4.3. This proposed change requires reflection in both the articles and the Council procedure rules.

2.4.4. Whilst there is a process for the substitution of Members at committees on a meeting by meeting basis, set out within the Constitution, there is no clear mechanism for the changing of overall membership. In the event of an in-year change to the political balance this would necessitate the Monitoring Officer to report to Council and there would be a report to advise on the reallocation of seats. That said, if a Member is either unable or unwilling to continue to sit on a committee there is no easy process for a group to make a change. Whilst a motion on notice could be submitted to Council, it is proposed that a simple process of notification to the Monitoring Officer is introduced. This would trigger a report to the next meeting and the Council could make the appointment.

3. Issue 2: Determination of Politically Restricted Posts

3.1. The Localism Act 2011 introduced an amendment to section 3A of the Local Government and Housing Act 1989. This amendment determined that it was a function of the Head of Paid Service (Chief Executive) to determine any application for an exemption from political restriction for officers of the authority.

3.2. Accordingly, there is no longer a need for the Political Restrictions Subcommittee (a subcommittee of the Audit and Ethics Committee) as it has no lawful functions. It is therefore proposed that the references to this are removed from the Constitution. In addition, it should be made clear within the Chief Executive's delegations (Head of Paid Service) that these functions are theirs alone.

3.3. In addition, the formation of panels for the Hearing and Dispensation Subcommittees ought to be based on the principles of political proportionality as there is no exemption from this requirement for these committees. It is appreciated that mathematically and practically this is potentially difficult to achieve fully in all cases. Therefore, it is proposed to strengthen the wording to make this clear.

4. Issue 3: Updates and Changes to the Constitution:

4.1. As part of reviewing the constitution, there is limited authority for the Monitoring Officer to update and amend the Constitution. Under the articles and the functions of the Monitoring Officer there is a limited power to reflect changes to the Council's structure. It is unclear as to the full extent of what is encompassed within this. For example, a restructuring of the Cabinet or Leadership Team may mean new role titles (within ambit to change these in the document) and a reorganisation of the functions and responsibilities between the relevant individuals (potentially within, if there are no changes to the individual elements although this is unclear). Given the Leader has the right to make amendments to the scope of portfolios within the executive functions it would certainly not be possible to reflect any new functions.

- 4.2. Equally there is no power to allow for typographic amendments reflecting the recognition of typesetting errors or to make amendments to make the document more streamlined and effective.
- 4.3. It is therefore recommended that a set of clear delegations are inserted to ensure that there is a clear and effective scope for the Monitoring Officer to amend and update the document; without making amendments which would impact the balance of powers.
- 4.4. In terms of the reporting of changes, this can be set at a range of thresholds, between ensuring every single change is reported to Full Council, to there being no requirement beyond publication. It is proposed that Members are notified when a new version of the Constitution is published, with any material changes summarised.

5. Issue 4: Officer Employment Rules

- 5.1. Further to review it has been identified that the Officer Employment Standing Orders, fail to fully reflect the statutory requirements. This is particularly in relation to the changes introduced by the Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. There have been amendments made at various points picking up elements of the changes. However, some requirements have not been included. Amendments are proposed as set out within Appendix 1.
- 5.2. The principal areas where the regulations have not been implemented are the process for the management of appointments of Statutory Officers and Directors. Whilst the Chief Executive was clearly an appointment of Council; the member interaction for other roles was not correctly identified.
- 5.3. The appointment of those who have a politically restricted post are by regulation required to follow certain requirements. The most significant omission of which was the process of notification of the Executive and opportunity to make representation prior to appointment (it should be noted that this is not the same as the Executive being the appointing body). This notification process also applies to dismissal.

6. Thematic Review and Timescales

- 6.1. Moving forward there is a clear objective for a complete review of the Council Constitution. Importantly, this is scheduled to be completed by the end of the municipal year.
- 6.2. Whilst in some respects there would be merit in compiling all the changes together and taking a single report to Council for the adoption of a wholly new Constitution; this approach would mean that we could not gain any benefits as the process accrues; and we place a significant burden on Members to consider a whole document in a single sitting. It is therefore proposed that the document is reviewed broadly in line with the following timescales (dates based on targeted Council Meetings). The below timescale would also require engagement with the Constitution Review Working Group.

Contents

Part One

1A - Summary and explanation	December / February
1B - Articles of the constitution (the principles under which the constitution operates)	December / February

Part Two

2A - Terms of reference (the powers of each of the bodies referred to in the constitution)	December / February
2B - Scheme of delegation to officers (the powers which the council has given to its officers)	Nb Pt done Feb 24 March

Part Three

3A - Council standing orders (the rules by which the council and committees operate)	February / March
3B - Cabinet standing orders (the rules by which the cabinet operates)	February / March
3C - Overview and scrutiny standing orders (the rules by which overview and scrutiny operates)	February / March
3D - Access to information standing orders (the arrangements for making information about council business available)	February / March
3E - Budget and policy framework standing orders (the financial and policy framework within which the council operates)	Completed Feb 24
3F - Contracts standing orders (the rules governing the management of contracts)	February Note New Act 24/2
3G - Financial standing orders (the council's financial rules)	February
3H - Officer employment standing orders (the rules governing the employment of officers)	March

Part Four

4A - Code of conduct for councillors	December / February
4B - Code of conduct for councillors and officers dealing with planning matters	[To review]
4C - Code of conduct for employees	March

4D - Protocol on councillor/officer relations	March
4E - Confidential reporting code (the council's whistleblowing code)	March
4F - Monitoring Officer protocol (protocol defining the power and duties of the Monitoring Officer)	March
4G - Complaint process	December
4H - Councillor call for action (protocol for members to refer matters to overview and scrutiny)	February
4I - Petition scheme (protocol for dealing with petitions)	March

Part Five

5A - Members' allowance scheme	No Change Proposed
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Part Six

6A - Management structure	December
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6.3 It is acknowledged that this represents a very substantial commitment, and the timescale will in part be determined by the level of engagement and discussion that elements of this will require. It is hoped that elements can be brought forward in phases wherever possible to mitigate the complexity of the approach.

7. Conclusion

7.1 This report and the proposed recommendation set out required changes to the Council Constitution. Importantly, these changes are required and fall within the full-scale review of the Constitution. At the heart of strong and effective governance is a Council Constitution that accords with legislative requirements and overall best practice. The report sets a clear timeline for this to be achieved, and this will also align with the Council's overall corporate objectives as proposed in its upcoming Corporate Strategy.

Appendix 1

Amendments shown to the current text with deletions struck through (~~deletion~~) and inserts highlighted in red (**insertion**).

Issue 1:

Part 1A Summary and Explanation

4. How decisions are made

Cabinet is the part of the Council which is responsible for most day-to-day decisions. Cabinet is made up of Leader of the Council and between two and ~~seven~~ **nine** other members appointed by the Leader. When major decisions are to be discussed or made, these are published in Cabinet's Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed at a meeting of Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed. Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council to decide.

Part 1B Articles of the Constitution

8.1 Regulatory committees

- 8.1.1 The Council will appoint the committees set out in Part 2A of this constitution. The seats on the committees will be allocated proportionately to the representation of political groups and individual councillors on the Council ~~and shall not include any members of Cabinet.~~

Part 2A Terms of Reference of the Council, Cabinet, Scrutiny Committee and regulatory committees

4. Terms of reference of the Council

The Council shall be responsible for the following:

- 4.8 ~~Determining the allocation of executive functions to Cabinet.~~ **[Section Deleted]**

5. Terms of reference of Cabinet

5.1 Exercise of functions

- (a) Cabinet shall be responsible for the exercise of all executive functions on behalf of the authority, i.e. all of the local authority's functions which are not the responsibility of Full Council or any other part of the council whether by law or under this constitution.

- ~~(b) The executive functions are allocated by the Council to Cabinet as a collective decision-making body i.e. the Leader and Cabinet members acting together. [Section Deleted]~~
- (c) There are currently ~~four~~ **six** portfolios as shown below at paragraphs 5.4 to 5.9. The Leader may change the number of portfolios and amend the allocation of responsibilities within each portfolio.

[Sections 5.4 to 5.10 inclusive to be deleted and replaced with 5.4 to 5.9 below]

5.2 Organisational Change Portfolio

- (a) To drive and promote the development and implementation of Change and Transformation.
- (b) Consult, lead, and collaboratively work with the various portfolios in respect of Change and Transformation projects.
- (c) Explore and determine areas of Change and Transformation across all functions of the Council.

5.3 Communities and Homes, Regulation and Safety Portfolio

- (a) The development and implementation of a strategy for the production of community plan(s) in the borough together with monitoring and reviewing the effectiveness of any plans.
- (b) Communication and consultation with the local community including the following:
 - (i) Overseeing the implementation of, and monitoring and reviewing, the council's external communication strategy.
 - (ii) Considering additional or alternative means for seeking the views of citizens and increasing community involvement and engagement in decision-making, in particular by the young and elderly.
 - (iii) Examining the potential of new technology in facilitating means of informing and engaging with the community.
 - (iv) Establishing, examining and developing the role of area forums.
- (c) The promotion and implementation of community development as a means to build capacity within communities and to reduce social and economic exclusion.
- (d) The promotion and development of joint working, collaboration and partnerships with statutory and non-statutory organisations with particular reference to the following:
 - (i) Promotion and achievement of sustainability.
 - (ii) Promotion of social inclusion.
- (e) The management and control of the council's functions in relation to the following:

- (i) Grants to community and voluntary organisations.
- (ii) The functions of the council as a local housing authority.
- (f) the management and control of land and buildings other than those appropriated to the Housing Revenue Account.
- (g) Action under the Rent Acts and the Housing Act 1988.
- (h) The administration of housing and council tax benefit including the council's powers to promote the take up of benefits.
- (i) The functions of the council in relation to gypsy and traveller caravan sites (excluding licensing activities).
- (j) The control of pollution, including refuse collection and recycling, street cleansing and abandoned vehicles.
- (k) The powers and duties of the council in connection with all public health and environmental health matters.
- (l) Markets.
- (m) Environmental protection, improvement, and promotion.
- (n) The management and control of, and the formulation of policy and strategy for the provision of services relating to crematoria, cemeteries, closed churchyards and burial grounds.
- (o) The exercise of the council's powers under Part 8 of the Anti-Social Behaviour Act 2003 in relation to complaints about high hedges.
- (p) The management and control of the council's functions in relation to crime and disorder.
- (q) The management and control of all matters relating to the council's health and safety duties including the formulation, approval, implementation and monitoring of policies and strategies.
- (r) Emergency planning and dealing with emergencies.
- (s) The review and monitoring of community safety policies.
- (t) The overview and discharge of the council's responsibility for crime and disorder and community safety including liaison and joint action with the police and other public agencies.
- (u) Car parking.

5.4 Finance and Performance, Legal and Governance Portfolio

- (a) The council's performance and systems for managing it.
- (b) Procurement.
- (c) The management and control of the day-to-day administration of the financial affairs of the council.

- (d) The administration, collection and enforcement of the council tax, and non-domestic rates and sundry income.
- (e) The management and control of land and buildings other than those appropriated to the Housing Revenue Account.
- (f) The management and control of all democratic and electoral functions and services to councillors, including the following:
 - (i) Fixing the dates and times of Full Council, Cabinet and committee meetings.
 - (ii) The appointment of councillors, officers and others to other bodies, associations and organisations.
 - (iii) To consider the election of the Mayor and the appointment of Deputy Mayor and to recommend to the Council on the private and confidential agenda at its first meeting in each calendar year, a councillor for election as Mayor and a councillor for appointment as Deputy Mayor.
 - (iv) Standing Orders.
 - (v) Councillor training and development.
 - (vi) Civic twinning.
- (g) The management and control of the following functions of the council:
 - (i) Central support services.
- (h) The promotion and provision of access and facilities for disabled people.
- (i) The promotion and development of joint working, collaboration and partnerships with statutory and non-statutory organisations with particular reference to the creation of equality of opportunity.

5.5 Growth and Investment, Digital and Communications Portfolio

- (a) The consideration of the economic needs of the borough at local, subregional and regional level including the development and publication of the council's economic development strategy and the promotion of initiatives aimed at creating employment opportunities and actions to improve the prospects of attracting new industry and commerce into the borough.
- (b) Liaison with government departments, local authorities and other bodies on the preparation and review of such regional planning policies and guidance as may exist to promote the best interests of the borough including the making of representations on policy content or omissions, at all stages of the process.
- (c) The preparation, monitoring and review of a comprehensive statutory core strategy for the borough in accordance with prevailing national and regional policy guidance, the structure plan, and the borough council's

planning objectives.

- (d) The management and control of the council's functions in relation to the following:
 - (i) Media and publicity, data protection and freedom of information.
- (e) The responsibility for the council's customer services including the customer service centre and the council's website.
- (f) Liaison with, and the making of representations to, the Government, adjoining local planning authorities and local authority and professional associations on economic development, planning and building control policy, practice and legislative issues.
- (g) The Council's duties and responsibilities relating to Local Land Charges.

5.6 Partnerships and Wellbeing Portfolio

- (a) The management and control, and the formulation of policy and strategy of the council's functions in relation to the following:
 - (i) The declaration of conservation areas.
 - (ii) Leisure centres.
 - (iii) Museums and art galleries.
 - (iv) Leisure management contracts.
 - (v) Grants to arts, cultural and recreational organisations.
 - (vi) Sports twinning.
- (b) The promotion of health improvement.
- (c) The promotion of initiatives to increase and facilitate tourism activities in the borough.
- (d) The management and control of, and the formulation of policy and strategy for the provision of services in the following:
 - (i) The council's parks, open spaces, play areas, recreation grounds, country parks and nature reserves.
 - (ii) Allotments.
- (e) Liaison and joint working with organisations responsible for the delivery of health care in the borough.

5.7 Operations and Traded Services Portfolio

- (a) The control of pollution, including refuse collection and recycling, street cleansing and abandoned vehicles.
- (b) The management and control of the Works Services Unit, the council's vehicle and plant fleet, stores, supplies and central purchasing.

Appointment of substitutes of regulatory committees, overview and scrutiny committees and sub-committees

4.1 Appointment of substitutes

If a member of a regulatory committee, a sub-committee, or an overview and scrutiny committee is unable to attend a meeting, that councillor:

- (a) May appoint a substitute from their own group to attend that meeting instead.
- (b) If unable to appoint a substitute personally, the councillor's political group may make the appointment.
- (c) The substitute must not be a member of Cabinet **for meetings of the Overview and Scrutiny Committee and its sub committees.**
- (d) No councillor may act as a substitute on Licensing and Safety Committee or Planning Committee without having attended appropriate training in licensing or planning matters, as applicable, during the previous 12 months.
- (e) No councillor may act as a substitute on Audit and Ethics Committee unless they have been appointed a named substitute by the Council and have received appropriate training.

4.4 Change of appointed Councillors

- (a) **The Leader of any Political group (or their nominated deputy) may give written notice to the Monitoring Officer that they wish to permanently substitute a named Member from their political party of any committee (other than cabinet) no later than not later than midday on the tenth working day before an Ordinary Council meeting. The proposed substitution must not impact the political proportionality of the Council.**
- (b) **On receipt of the notice the Monitoring Officer will make arrangements for a report to the next Ordinary Council meeting to allow for Council to make the change to the appointment for the remainder of the municipal year.**

Issue 2:

Part 2A Terms of Reference of the Council, Cabinet, Scrutiny Committee and regulatory committees

8. Audit and Ethics Committee

12. Dealing with the grant and supervision of exemptions from political restriction (Political Restriction Sub-committee) [Section deleted]	S3A Local Government and Housing Act 1989
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11. ~~Political Restriction Sub-Committee~~ **[Section deleted]**

~~Audit and Ethics Committee will appoint a Political Restriction Sub-Committee as and when required with the following terms of reference:~~

~~To deal with any particular matter relating to political restrictions and whether an exemption should be granted.~~

12. Membership of Hearing Sub-Committee, **and** Dispensation Sub-Committee ~~and Political Restriction Sub-Committee~~

- 12.1 The Chief Executive shall select members to sit, as and when required, as one of the sub-committees referred to in Sections 9, **and** 10 ~~and 11~~, to deal with a particular matter or matters.
- 12.2 The sub-committee shall consist of three or more elected councillors of Audit and Ethics Committee. **The membership of the subcommittee should reflect the political proportionality of the council** where possible, including members of at least two of the political groups represented on the Council.

Part 2B Scheme of Delegation to Officers

2.3 Head of Paid Service

- (g) ~~Deal with~~ **Determine** requests for certificates of opinion in relation to politically restricted posts under Section 3 of the Local Government and Housing Act 1989.

Issue 3:

Part 1B Articles of the Constitution

12.3 Functions of the Monitoring Officer

- (a) **Maintaining the constitution.** The Monitoring Officer will maintain an up-to-date version of the constitution and will ensure that it is widely available for consultation by councillors, staff and the public. ~~The Monitoring Officer is authorised to amend the constitution to correct errors or to comply with any legal requirement or to reflect changes to the council's structure. They will inform the Council of any material changes made at the earliest opportunity.~~

15.2 Changes to the Constitution

- (a) **Approval.** Changes to the constitution, ~~except where changes are proposed by Audit and Ethics Committee, will only be approved by the full Council~~ **will only be considered** after ~~consideration of the receipt of a report on~~ the proposal by the Monitoring Officer.

a. **Legislative Changes**

Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer decides or the legislation (where relevant) so provides. Such changes shall be reported to the next Full Council meeting.

b. **Minor Changes**

If, in the reasonable opinion of the Monitoring Officer a change is;

(a) required to be made to remove any inconsistency, ambiguity, typographical or other such error, changes to staffing structures, job descriptions or changes in terminology; or

(b) required to be made so as to put into effect any decision of the Council or its Committees or the Executive; or

(b) to amend the Constitution to implement decisions of the Leader in relation to the delegation of executive functions to the Executive Members; or

(d) requested only for the practical purpose, in order to ensure the proper administration of the Council

The Monitoring Officer may make such a change and it shall come into force with immediate effect. The Monitoring Officer shall take reasonable steps to notify all Members of the Council as soon as practical. In relation to b, c or d above such changes shall be reported to the next Full Council meeting.

- (b) **Change from a Leader and Cabinet form of Executive to other arrangements.** The Council must take reasonable steps to consult with the local electors and other interested persons in the area when drawing up such proposals.

Issue 4:

Part 2A Terms of Reference of the Council, Cabinet, Scrutiny Committee and regulatory committees

7. **Grievance ~~Committee~~ and Appeals Committee**

7.4 **Disciplinary Matters for Statutory Chief Officers**

To consider investigate and hear allegations against Statutory Chief Officers and make recommendations to Council in accordance with the Officer Employment Standing Orders.

Part 3H Officer Employment Standing Orders

Definitions:

For the purposes of this part of the Constitution the following Definitions apply:

- Chief Officer shall mean a Chief Officer of the Council within the meaning of s2(7) Local Government and Housing Act 1989.
- Statutory Chief Officer shall mean the Council's Chief Executive (and or Head of Paid Service if these posts are separated) Monitoring Officer, and Chief Finance Officer.

2. **Recruitment of the ~~Chief Executive~~ Statutory Chief Officers and Chief Officers**

Where the Council proposes to appoint ~~the Chief Executive~~ a Statutory Chief Officer or Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought.
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

~~This section and paragraphs 3(a), 3(b) and 5(c) shall also apply to the position of the Head of Paid Service if at any time the position of the Head of Paid Service is not held by the Chief Executive.~~

3. **Appointment of the ~~Chief Executive~~ Statutory Chief Officers**

- (a) The Council will approve the appointment of the ~~Chief Executive~~ and Head of Paid Service following the recommendation of such an

appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one Cabinet member.

- (b) The Council may only make or approve the appointment of a Statutory Chief Officer where no well-founded objection has been made by any Cabinet member.

4. Other appointments

- (a) Before the appointment of any Chief Officer, there must be no well-founded objection to the appointment from any Cabinet Member.
- (b) Appointment of officers other than the Chief Executive (or the Head of Paid Service if a different person) and assistants to political groups is the responsibility of the Head of Paid Service or their nominee and may not be made by councillors.

5. Disciplinary action

- (a) Except for the statutory exceptions set out below, disciplinary action in relation to officers is governed by the council's agreed procedure.
- (b) The Head of Paid Service, the Monitoring Officer and the Chief Financial Officer may be suspended while an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than three months. (or such longer period as may be determined as necessary subject to periodic review).
- (c) In an emergency, the Head of Paid Service or the Monitoring Officer may suspend a Statutory Chief Officer. In other cases, only an Investigation and Disciplinary Committee appointed by the Council (being the Grievance and Appeals Committee) may suspend a Statutory Chief Officer, or extend the suspension.
- (d) Any further disciplinary action must be taken in accordance with the procedure set out in Appendix 1.
- (e) Councillors will not be involved in disciplinary action against any officer other than the Chief Executive, the Monitoring Officer and the Chief Financial Officer, Statutory Chief Officers as detailed in Appendix 1, except:
 - a. Where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to councillors in respect of disciplinary action. And/or:
 - b. For Chief Officers who are not Statutory Chief Officers before any Notice of dismissal is issued there must be no well-founded objection to the dismissal from any Cabinet Member.

Appendix 1

Procedure for disciplinary action against the Head of Paid Service, the Chief Financial Officer and the Monitoring Officer Statutory Chief Officers

1. This procedure applies to the ~~appointment and operation of a panel to advise Full Council in relation to the dismissal of the Head of Paid Service, the Monitoring Officer or the Chief Financial Officer ('relevant officers')~~ Statutory Chief Officers and has been incorporated into these rules as required by the Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
2. Disciplinary allegations shall be considered by an Investigation and Disciplinary Committee (IDC) appointed by the Council. The IDC shall include at least one member of the Cabinet.
3. Where the IDC makes a recommendation to dismiss the Statutory Chief Officer, the council must ~~invite~~ convene a Panel of at least two independent persons appointed under Section 28(7) of the Localism Act 2011 ("the 2011 Act") to consider the recommendation. ~~to be considered for appointment to the panel, with a view to appointing at least two independent persons to the panel.~~
4. ~~In paragraph 2, "independent person" means any independent person who has been appointed by the council or, where there are fewer than two independent persons, such independent persons as have been appointed by another authority or authorities as the council considers appropriate.~~
5. Subject to paragraph 57, the council must appoint to the panel independent persons who have accepted an invitation issued under paragraph 23, in the following order of priority:
 - (a) An independent person who has been appointed by the council and who is a local government elector in the council's area.
 - (b) Any other independent person who has been appointed by the council.
 - (c) An independent person who has been appointed by another authority or authorities.
6. The council may appoint more than two independent persons.
7. The council must appoint the p Panel must be appointed at least 20 working days before the full Council meets to consider whether or not to approve a proposal to dismiss a relevant officer Statutory Chief Officer.
8. The panel shall be Audit and Ethics Committee.
9. ~~Following its investigation, the panel will advise a meeting of Full Council on whether to dismiss.~~ In making its decision whether to dismiss the Statutory Chief Officer, the Council must consider:
 - (a) the advice, views and recommendations of the Ppanel

- (b) the conclusions of any investigation into the proposed dismissal
- (c) any representations from the ~~relevant officer~~ Statutory Chief Officer

10. The hearing by Council will fulfil the statutory appeal function and there is no further right of appeal against dismissal.
11. If the IDC takes action short of dismissal, the Statutory Chief Officer may appeal to the Grievance and Appeals Committee.
12. Any remuneration, allowances or fees paid by the council to an independent person appointed to the panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as an independent person under the 2011 Act.

Name of Meeting: Council

Date of Meeting: 20 November 2024

Subject Matter: Constitution Review update

Originating Department: Legal and Governance

DO ANY BACKGROUND PAPERS APPLY ☒ **YES** ☐ **NO**

LIST OF BACKGROUND PAPERS

Doc No	Title of Document and Hyperlink
1	Constitution The Council's Constitution

The background papers relating to reports on planning applications and which are open to public inspection under Section 100D of the Local Government Act 1972, consist of the planning applications, referred to in the reports, and all written responses to consultations made by the Local Planning Authority, in connection with those applications.

☐ Exempt information is contained in the following documents:

Doc No	Relevant Paragraph of Schedule 12A