

**Classification:** Public  
**Key Decision:** No

### Gravesham Borough Council

**Report to:** Full Council  
**Date:** 17 October 2023  
**Reporting officer:** Vicky Nutley, Head of Legal Services and Deputy Monitoring Officer  
**Subject:** Review of the Constitution (Phase 1)

#### Purpose and summary of report:

To present Full Council with proposed amendments to the *Summary and Explanation* and *The Articles* of the Constitution for formal approval and adoption.

#### Recommendations:

It is recommended that Full Council:

1. Approves the amendments to the *Summary and Explanation* of the Constitution as set out in section two of the report and appendix one.
2. Approves the amendments to *The Articles* of the Constitution as set out in section three of the report and appendix two.

Key Implications:	
Item	Implications
Legal	A Local Authority is under a duty to prepare and keep up to date its constitution under Section 9P of the Local Government Act 2000 as amended.
Finance and Value for Money	There are no financial or value for money implications arising from this report.
Corporate Plan	The Constitution is the governing document for the council in its entirety and therefore is relevant to all aspects of the Corporate Plan.
Climate Change	There are no Climate Change implications arising from this report.

## 1. Introduction

- 1.1 In July 2023, the Finance & Audit Committee were presented with the findings from the annual review of the council's governance arrangements; the *Annual Governance Statement* for the 2022-23 financial year. Whilst no significant control issues were identified, the review did present some opportunities to further develop and strengthen the council's governance framework and system of internal control.
- 1.2 Specifically, the review suggested the following action, which was approved by the Finance & Audit Committee:

Control	Action
The Constitution	The Constitution is an integral component of the council's governance framework. To ensure it remains up to date regarding legal expectations and accurately reflective of the authority's evolving governance structure, a scheduled review will be undertaken in 2023-24.

- 1.3 In line with this action, a review of the Constitution has been planned for 2023-24 and split into three phases:
- 1.3.1 **Phase 1**  
Review of the *Summary and Explanations* and *The Articles* sections of The Constitution
- 1.3.2 **Phase 2**  
Review of *Annex 2 – Procedural Rules* and *Annex 3 – Codes of Practice & Protocol*.
- 1.3.3 **Phase 3**  
Review of *Annex 1 – Responsibility of Functions* (inc. Management Structure).

It should be noted that *Annex 4 – Members Allowances* is being reviewed separately and will be presented to Members accordingly.

- 1.4 In reviewing the sections of the council's Constitution, examples from other local authorities have also been used (Medway Council and Westminster City Council) in order to ensure all relevant information is captured.
- 1.5 The purpose of this report is to provide Members with the results of the first phase of the review process and request approval of the amendments suggested following the review.

## 2. Review of the Summary and Explanations

- 2.1 Appendix one provides Members with the proposed amendments to the *Summary and Explanations* of The Constitution.
- 2.2 In summary the amendments suggested are as follows:
- 2.2.1 Amendments to reflect the change to the total number of elected Members at Gravesham Borough Council following the review by the Electoral Commission.

- 2.2.2 Expansion of the section regarding the appointment of Members to the Cabinet to confirm the minimum/maximum number of Members that can be appointed.
- 2.2.3 Additions to section 4 – Citizens Rights – to update the name of the Ombudsman and to add in additional rights of citizens regarding petitions, Freedom of Information requests and access to agendas and reports, referencing the detailed rules in Annex 2.
- 2.3 The appendix contains two versions; the first is with tracked changes to enable Members to see the changes that are being suggested and the second is a ‘clean’ version with the suggested changes incorporated

### **3. Review of The Articles**

- 3.1 Appendix two provides Members with the proposed amendments to *The Articles* of The Constitution.
- 3.2 In summary the amendments suggested are as follows:
  - 3.2.1 Provide additional context to the ‘Purpose of the Constitution’ section.
  - 3.2.2 Revised wording in relation to clearly setting out who is eligible to be a Member of the Council.
  - 3.2.3 Updates to Article 3 in relation to attendance at Council meetings, petitions, freedom of information and the rights of citizens to apply to be an Independent Person/Member of the Independent Remuneration Panel.
  - 3.2.4 Revised wording in Article 4 in relation to the explanatory information relating to the ‘Budget’ section of the document and updates to reflect the current structure for council meetings.
  - 3.2.5 Realignment and updates to the information under section 6 relating to the Scrutiny function of the council to more clearly set out this function.
  - 3.2.6 Realignment and updates to the information under section 7 relating to the Leader & Cabinet Executive function of the council to more clearly set out this function.
  - 3.2.7 Realignment and updates to the information under section 8 relating to the Planning Committee and other Committees of the council to more clearly set out these functions.
  - 3.2.8 Realignment and updates to the information under section 9 relating to the Standards Committee of the council to more clearly set out this function.
  - 3.2.9 Reformatting of Article 12 to more clearly set out the roles and responsibilities of employees of the council and the appointment process. An additional responsibility has been added to the functions of the Monitoring Officer to reflect the delegations from the Standards Committee.
  - 3.2.10 Update to Article 15 – *Duty to review and Monitor the Constitution* – to clearly set out the responsibilities of the Monitoring Officer in the review process.
- 3.3 The appendix contains two versions; the first is with tracked changes to enable Members to see the changes that are being suggested and the second is a ‘clean’ version with the suggested changes incorporated.

#### 4. Next Steps

- 4.1 Subject to approval of the amendments set out by Members, the Constitution will be updated and re-published on the Council website. The revised versions of the documents will also be shared with Senior Managers and all Members.

#### 5. Appendices

- 5.1 The following documents are to be published with the report:
- Appendix One – *Summary and Explanation* of The Constitution (tracked changes and clean version)
  - Appendix Two – *The Articles* of The Constitution (tracked changes and clean version)

#### 6. Background Documents

- 6.1 The following background documents were used:
- Report to the Finance & Audit Committee – 18 July 2023 - *Annual Governance Statement 2022/23*
  - Medway Council – *Constitution of the Council – Updated July 2023*
  - Westminster City Council - *Constitution*

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<b>Secondary Implications</b>	
<b>Risk Assessment</b>	It is of critical importance that the council has sufficient government arrangements in place which is provided by a Constitution that is kept up to date.
<b>Data Protection Impact Assessment</b>	<i>A data protection impact assessment (DPIA) should be carried out at the start of any major project involving the use of personal data or if you are making a significant change to an existing process.</i>
	a. Does the project/change being recommended through this paper involve the processing of <a href="#">personal data</a> or <a href="#">special category data</a> or <a href="#">criminal offence data</a> ? A definition of each type of data can be found on the Information Commissioner's Office website via the above links. No
	b. If yes to question a, have you completed and attached a DPIA including Data Protection Officer advice? N/A
	c. If no to question b, please seek advice from your nominated DPIA assessor or the Information Governance Team at <a href="mailto:gdpr@medway.gov.uk">gdpr@medway.gov.uk</a> . N/A
<b>Equality Impact Assessment</b>	a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No
	b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No
	<i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i>
<b>Crime and Disorder</b>	There are no crime and disorder implications arising from this report.
<b>Digital and website implications</b>	Subject to the approval of the amendments to the <i>Summary and Explanation</i> and <i>The Articles</i> of the Constitution by Members, the updated documents will be uploaded to the Council website.
<b>Safeguarding children and vulnerable adults</b>	There are no safeguarding children and vulnerable adults implications arising from this report.