

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Full Council

Date: 05 December 2023

Reporting officer: Vicky Nutley, Head of Legal Services and Deputy Monitoring Officer

Subject: Review of the Constitution (Phase 2)

Purpose and summary of report:

To present Full Council with proposed amendments to *Annex 2 – Procedural Rules* and *Annex 3 – Codes of Practice and Protocols* of the Constitution for formal approval and adoption.

Recommendations:

It is recommended that Full Council:

1. Approves the amendments to *Annex 2 – Procedural Rules* of the Constitution as set out in section two of the report and appendix one.
2. Approves the amendments to *Annex 3 – Codes of Practice and Protocols* 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 As reported to Full Council at its meeting in October 2023, a review of the Constitution is currently underway in order to respond to the recommendation in the 2022-23 Annual Governance Statement as follows:

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.

- 1.2 In line with this action, a review of the Constitution has been planned for 2023-24 and split into three phases:
- 1.2.1 **Phase 1**
Review of the *Summary and Explanations* and *The Articles* sections of The Constitution – Completed with revisions to the relevant sections of the Constitution approved at Full Council on 17 October 2023.
- 1.2.2 **Phase 2**
Review of *Annex 2 – Procedural Rules* and *Annex 3 – Codes of Practice & Protocol*.
- 1.2.3 **Phase 3***
Review of *Annex 1 – Responsibility of Functions* (inc. Management Structure).
- 1.3 The purpose of this report is to provide Members with the results of the second phase of the review process and request approval of the amendments suggested following the review.

2. Review of Annex 2 – Procedural Rules

- 2.1 Appendix one provides Members with the proposed amendments to *Annex 2 – Procedural Rules* of The Constitution.
- 2.2 In summary the amendments suggested are as follows:
- 2.2.1 **Annex 2.1 - Council Procedure Rules**
Updates to more accurately reflect the process by which meetings of the council are held and governed. Specifically, this provides clarification on how questions from the public will be managed along with deputations as well as questions from Members. The *Rules* and *Conduct of Debate* sections have also been updated.
- 2.2.2 **Annex 2.2 - Access to Information Procedure Rules**
Updates to more clearly set out the access to agendas and papers by Members and Committees, reference to the required Public Interest test and removal of reference to the previous *Forward Plan*; this is replaced with details of the *Forthcoming (28 days) Notice*.
- 2.2.3 **Annex 2.4 - Cabinet Procedure Rules**
Minor amendments to remove reference to the specific number of Cabinet meetings to be held each year.

- 2.2.4 Annex 2.6 - Financial Procedure Rules
Updated to ensure continuity in throughout the Constitution in respect of the management of Gifts and Hospitality.
- 2.2.5 Annex 2.7 - Contract Procedure Rules
Updates to reflect where the provision of the contract procedure rules are not required to be followed, strengthening the roles and responsibilities of officers in the procurement process and updating the financial thresholds in respect of VAT inclusion.
- 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 *Annex 3 – Codes of Practice & Protocol of The Constitution*.
- 3.2 In summary the amendments suggested are as follows:
 - 3.2.1 Inclusion of a flow chart to more clearly set out the process for Members when identifying the need to declare a Pecuniary Interest.
 - 3.2.2 Updates to Annex 3.2 – Code of Conduct of Officers of the Council in order to reflect the updated Code of Conduct dates September 2019.
 - 3.2.3 Updates and reformatting of *Annex 3.4 – Protocol for Relations between Members and Officers of the Council* to more clearly define the roles and responsibilities of both officers and Members.
 - 3.2.4 Minor updates to the Code of Practice on Media Relations and Publicity to reflect the council's Communications Strategy and current practices. In addition, a new annex has been added at 3.12 in respect of Social Media.
 - 3.2.5 Minor updates to the Protocol for the Appointment of an Independent Remuneration Panel to reflect current practice.
 - 3.2.6 Updates to *Annex 3.9 - Protocol for the operation of the Planning Committee and Planning Procedures* – to provide greater transparency and clarity on the processes and procedures to be followed in respect of planning processes.
 - 3.2.7 Updates to *Annex 3.11 – Petition Scheme* to more clearly set out the requirements for petitions to be submitted and how these will be managed by the council.
- 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 – *Annex 2 – Procedural Rules of The Constitution* (tracked changes and clean version)
- Appendix Two – *Annex 3 – Codes of Practice & Protocol 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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Secondary Implications	
Risk Assessment	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.
Data Protection Impact Assessment	<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 personal data or special category data or criminal offence data ? 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 gdpr@medway.gov.uk . N/A
Equality Impact Assessment	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>
Crime and Disorder	There are no crime and disorder implications arising from this report.
Digital and website implications	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.
Safeguarding children and vulnerable adults	There are no safeguarding children and vulnerable adults implications arising from this report.