

READING BOROUGH COUNCIL
REPORT BY MONITORING OFFICER

TO:	COUNCIL		
DATE:	18 OCTOBER 2022		
TITLE:	GOVERNANCE ARRANGEMENTS - CONSTITUTION & DELEGATION OF FUNCTIONS		
SERVICE:	LEGAL AND DEMOCRATIC SERVICES	WARDS:	BOROUGH-WIDE
LEAD COUNCILLORS	Cllr LIZ TERRY Cllr JASON BROCK	CORPORATE SERVICES & RESOURCES LEADERSHIP	
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1. PURPOSE AND SUMMARY OF REPORT

- 1.1 This report seeks approval for the adoption of a revised Constitution for Reading Borough Council.
- 1.2 The overall objectives of the recommended changes to the Constitution are to:
- streamline and improve efficiency of decision-making;
 - simplify the Constitution and Delegations Register;
 - make the Constitution simple and easy to navigate; and
 - make the decision-making process easier to understand for officers, Councillors and members of the public.
- 1.3 The recommended Constitution is attached as an appendix for consideration and approval and consists of the following:
- Part 1 - Summary and Explanation
Part 2 - Articles of the Constitution
Part 3 - Responsibility for Functions
Part 4 - Rules of Procedure
Part 5 - Codes and Protocols
- 1.4 The Constitution has been updated to reflect the objectives above as well as other more routine changes, such as updating officer titles and current names of committees.
- 1.5 Some parts of the Constitution are still in the process of being updated, and therefore will be included unchanged in the updated Constitution, subject to a reference clarifying their current status:
- The Member Code of Conduct is being reviewed by the Standards Committee on 10 October 2022 and is included as a separate report on this evening's agenda (see agenda item 8)

- The Planning Code of Conduct is being reviewed and will be presented to the Standards Committee for review
- The Financial Regulations will be reviewed in line with the introduction of the new Financial System and reported to Council at a later stage.

2. RECOMMENDED ACTION

- 2.1 That the revised Constitution for Reading Borough Council, as attached to the report, be adopted, in accordance with Section 9P of the Local Government Act 2000.**
- 2.2 That the Monitoring Officer, in consultation with the Leader, be authorised to correct any minor typographical errors or inconsistent numbering or cross references which become evident in publishing the Constitution in its final form.**
- 2.3 That the Monitoring Officer be asked to prepare a further report to Council in October 2023 to ensure that the aims of this review have been met and to present appropriate modifications or amendments if required.**
- 2.4 That, in addition to 2.3 above, the Constitution be reviewed by the Audit & Governance Committee annually with any recommended changes arising from its review to be submitted to Council for determination.**

3. POLICY CONTEXT

- 3.1 At the Annual Council Meeting on 22 May 2013 (Minute 7 refers), Council formally agreed to cease to operate the Leader and Cabinet Executive form of executive arrangements, and to start to operate a committee system of governance, with effect from that meeting.**
- 3.2 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.**
- 3.3 The Constitution has six Parts. Part 1 is a summary of its contents and purpose. Part 2 contains 16 Articles which set out the legal position regarding the Council's operation. Part 3 sets out the responsibility for functions. Part 4 contains the authority's Rules of Procedure, including its Standing Orders. Part 5 contains the authority's Codes and Protocols, including the local Member Code of Conduct. Part 6 is the Members' Allowances Scheme.**

4. THE PROPOSAL

(a) Current Position

- 4.1 The Constitution Review is addressing concerns that the Council's governance and decision-making processes are not easily understandable to officers, councillors and members of the public.**
- 4.2 The revised Constitution will be critical to ensuring that Council policies and procedures are consistent with delivering good governance.**

4.3 In June 2022, a Peer Review team visited and was keen that the work to revise the Constitution should be carried out promptly to deliver the objectives set out in the purpose and summary of the report and in the options proposed below.

4.4 In practice, the review would seek to make the following changes in the interests of simplification and improving understanding of the Constitution by looking to:

- Define clearly in the Delegations Register and Committee terms of reference the powers delegated to Committees, which cannot be dealt with by officers.
- Remove references to the previous Executive powers, or Executive regulations, in Part 3 as these are unnecessary.
- Incorporate the Delegations Register within the Constitution (Part 3) and simplify it to avoid the prescriptive nature of the current Register.
- Officer powers should be those matters which are not reserved to Committees. Officer powers should be expressed in broad terms to allow for simplicity and clarity.
- Remove all references to historical background about how the Constitution has been amended and developed, including decisions taken to introduce the Constitution.
- Remove all operational material template documents to ensure the Constitution does not quickly become out of date.
- Identify operational processes and procedures which could be removed from the Constitution and put on the website and/or held as guidance for officers and members.
- Remove unnecessary information and duplication.
- Remove the officer management structure, as this not required and is more usefully published to the website.

(b) Options Proposed

4.5 Part 1 - Summary & Explanation has been updated to remove duplication with other parts of the Constitution. References to the history about how the current system of governance was adopted have been removed.

4.6 Part 2 - Articles 1-5 have been simplified and updated to reflect the Council's current Corporate Plan and priorities.

4.7 Part 2 - Article 6 - Leadership - The main change is to move the Leadership and Lead Councillor portfolios from Part 3 of the Constitution into Article 6. The Lead Councillor portfolios have been updated to reflect the decision of Council on 25 May 2022.

4.8 Part 2 - Article 7 - Committees - The text has been simplified and historical information removed from the description of the governance arrangements. The terms of reference of the Committees have been moved to Part 3 of the Constitution, 'Responsibility for Functions'.

4.9 Part 2 - Article 8 - Regulatory & Other Committees - The terms of reference of the Committees within Article 8 have been moved to Part 3 of the Constitution, 'Responsibility for Functions'. The Licensing Sub-Committees have been streamlined to have all the functions carried out by a single Sub-Committee consisting of three members.

4.10 Part 2 - Article 9 - Standards Committee - The Standards Committee is making recommendations on Article 9 and the Member Code of Conduct and its associated documents (see item 8 on the agenda), for Council to consider and if adopted will be incorporated into the new Constitution.

- 4.11 Part 2 - Article 10 - Consultative Bodies - There are no significant changes proposed to the terms of reference of the Council's consultative bodies.
- 4.12 Part 2 - Article 11 - Joint Arrangements - No material changes are recommended.
- 4.13 Part 2 - Article 12 - Officers - A new Article 12 was endorsed by Personnel Committee at its meeting on 27 January 2021. No changes are recommended.
- 4.14 Part 2 - Article 13 - Decision-Making - This contains a redefinition of 'key' decisions principles, as follows in order to better define what is the preserve of councillors:
- (a) Key decisions are those decisions reserved to Committees or Sub-Committees to take, unless a committee has resolved to delegate a particular key decision to an officer;
 - (b) Senior officers will have authority to take all non-key decisions under delegated authority, which are not reserved to a Committee or Council for determination;
 - (c) Key decisions exercised by an officer with delegated authority from a committee will not need to come back to the Committee for approval but will be recorded appropriately;
 - (d) Contracts let over multiple years can incur expenditure of up to £500k per annum without being defined as a 'key' decision (i.e. a contract that exceeds £500k over the duration of its lifetime is not necessarily a key decision unless it exceeds the £500k threshold in any one year of the contract);
 - (e) Key decisions will have different thresholds for revenue and capital expenditure. Committee approval for capital expenditure is required except for (i) expenditure on rolling programmes of routine capital expenditure included on the capital programme (e.g., for housing and highways maintenance programmes) and (ii) Expenditure of up to £100k on capital preparatory/feasibility works for projects.
- 4.15 Part 2 - Articles 14-16 - No material changes are recommended.
- 4.16 Part 3 - Responsibility for Functions - Part 3 has been completely revised to include the replacement for the Delegations Register. It will also include the revised terms of references of committees, which have been redefined to focus committees' role on taking 'key' decisions and providing overview and scrutiny of services. Local choice functions, executive functions and council functions have been removed from the Constitution as they are not relevant to Reading's Committee system of governance. The Personnel Committee terms of reference have been updated to remove reference to Disciplinary and Grievance Panels, as this has been superseded by new policies in these areas. Additionally, the Committee's involvement in appointments and dismissals has been streamlined to apply to Executive Director and statutory officers' posts only.
- 4.17 Part 4 - Rules of Procedure
- Council and Committee Procedure Rules (Standing Orders) - Standing Order 8 -Petitions - the right to 'trigger a debate' where petitions achieve 1,500 or more valid signatories has been updated to give more flexibility to the process. In order to submit, present or sign petitions, a requirement to live, work or study in the Borough has been added to the Standing Order. The financial limits (Standing Orders 45-56 as to revenue and capital expenditure) will be updated to reflect the new definition for a 'key decision' and will be harmonised with the values set out in the Financial Regulations and Contract Procedure Rules.

- Access to Information Procedure Rules - A section has been added on the 'role of scrutiny' otherwise no material changes are recommended.
- Financial Regulations - The Budget and Policy Framework Procedure Rules will be incorporated into the Financial Regulations. The financial limits will be updated to reflect the new definition for a 'key decision' and be harmonised with the values set out in the Contract Procedure Rules.
- Overview and Scrutiny Procedure Rules - No material changes are recommended.
- Contract Procedure Rules - The Rules have been simplified to provide clear guidance to officers awarding contracts on behalf of the Council. The contract values have been updated to be consistent with the financial limits in the Financial Regulations and the new 'key decision' definition.
- Officer Employment Procedure Rules - No material changes are recommended as it is a mandatory process specified by statutory Regulations.
- Petitions Scheme - The Localism Act 2011 repealed the requirement for local authorities to have petition schemes. The Council will continue to allow petitions to be submitted at Council and committee meetings. Council Procedure Rule (Standing Order 8) will set out the requirements for members of the public to follow who wish to submit a petition to Council or a committee without the need for a separate scheme to be included within Part 4 of the Constitution.

4.18 Part 5 - Codes & Protocols

- Member Code of Conduct - An updated Code is being recommended to Council by the Standards Committee this evening (see agenda item 8).
- Officers' Code of Conduct - No material changes are recommended, as it was reviewed recently by Personnel Committee on 19 November 2020.
- Planning Code of Conduct - a separate piece of work has been commissioned with external planning lawyers to update the Planning Code of Conduct to consider recent guidance on best practice and introduce protocols now recommended by the Court for the separation of functions when councils deal with their own major applications. As part of this work the member handbook will also be updated and further training has been commissioned. This work will be reported to the Standards Committee in due course;
- Protocol on Member/Officer Relations - The Protocol has been updated to include more advice about officer communication with Leadership and Lead Councillors;
- Working with Reading's MPs - Guidelines - No material changes are recommended.
- Council Publicity and Elections - No material changes are recommended.
- Social Media Protocol - To be removed from the Constitution but will be retained as guidance for officers and councillors.
- Protocol for Webcasting and Recording of Council and Committee Meetings - To be removed from the Constitution but will be retained as guidance for officers and councillors.
- Protocol for Council Representation on Outside Bodies Meetings - To be removed from the Constitution but will be retained as guidance for officers and councillors.

4.19 Part 6 - Members' Allowances Scheme - The Council agrees a Members' Allowances Scheme each year following consideration of the Remuneration Panel's recommendations. This process is unaffected by the Constitution Review.

4.20 Part 7 - Management Structure -to be removed from the Constitution.

4.21 The table below summarises the recommendations that are included in the draft Constitution, which is attached as an Appendix, for consideration.

Constitution	Part	Recommendation
Summary & Explanation	1	Approve as set out in the draft Constitution
Articles 1-6	2	Approve as set out in the draft Constitution, Article 6 to be revised to include Lead Cllr portfolios
Article 7 - Committees	2	Approve as set out in the draft Constitution and move terms of reference to Part 3 'Responsibility for Functions'
Article 8 - Regulatory Committees	2	Approve as set out in the draft Constitution and move terms of reference to Part 3 'Responsibility for Functions'
Article 9 - Standards Committee	2	Standards Committee's recommendations for new Article 9 and Member Code of Conduct (see agenda item 8)
Article 10 - Consultative Bodies	2	No material change
Article 11 - Joint Arrangements	2	No material change
Article 12 - Officers	2	Note - Agreed Personnel Committee 27.01.21 - No change
Articles 13-16	2	Approve as set out in the draft Constitution
Responsibility for Functions	3	
Local Choice Functions	3	Delete - not relevant to Committee system of governance - To be replaced by an updated Delegations Register
Functions not Sole Responsibility of Executive	3	Delete - not relevant to Committee system of governance - To be replaced by an updated Delegations Register
Council Functions	3	Delete - not relevant to Committee system of governance - To be replaced by an updated Delegations Register
Lead Councillor Portfolios	2	Endorse new portfolios agreed with Leader - Move to Article 6, Part 2 - 'Leadership'
The existing Part 3 would be revised to consist of the following: <ul style="list-style-type: none"> • Introduction • Terms of Reference of Committees • Delegations in consultation with Lead Cllrs • Delegations to officers • Proper officer functions • Statutory Officers 	3	Agree new Part 3 of the Constitution, which include Committee terms of reference and officer delegations, as set out in the draft Constitution. This one section will now contain the basic rules of who can make decisions in Reading Borough Council.
Rules of Procedure	4	
Council and Committee Procedure Rules (Standing Orders)	4	Approve as set out in the draft Constitution
Access to Information Procedure Rules	4	Approve as set out in the draft Constitution

Budget and Policy Framework Procedure Rules	4	Approve incorporating these Rules into the Financial Regulations
Overview and Scrutiny Procedure Rules	4	Approve as set out in the draft Constitution
Financial Procedure Rules/Financial Regulations	4	Approve as set out in the draft Constitution
Contracts Procedure Rules	4	Approve as set out in the draft Constitution
Officer Employment Procedure Rules	4	Note - Agreed Council 07.07.15 - mandatory process specified by statutory Regulations - No change
Petitions Scheme	4	Delete - unnecessary duplication; the rights to petition the Council are set out in Council Procedure Rule 8
Codes & Protocols	5	
Member Code of Conduct	5	Approve the recommendation of the Standards Committee, as set out in the separate report at agenda item 8
Officers' Code of Conduct	5	Note - Agreed Personnel Committee 19.11.20 - No change
Planning Code of Conduct	5	Note - this is subject to a separate review
Protocol on Member/Officer Relations	5	Approve as set out in the draft Constitution
Working with Reading's MPs - Guidelines	5	No material change
Council Publicity and Elections	5	No change
Social Media Protocol	5	Remove from Constitution and retain as guidance
Protocol for Webcasting and Recording of Council and Committee Meetings	5	Remove from Constitution and retain as guidance
Protocol for Council Representation on Outside Bodies	5	Remove from Constitution - retain as guidance
Members' Allowances Scheme	6	Complete 2022/23 - Repeat for 2023/24 Remuneration Panel to recommend to Council Jan 2023
Management Structure	7	Remove from Constitution - publish to website

(c) Other Options Considered

- 4.22 Do nothing and retain the current Constitution: This option would not respond to the objectives of the review principally to simplify the Constitution and Delegations Register; make it easier to navigate; and improve understanding of its content.
- 4.23 Undertake a partial review and update those Parts of the Constitution in most need of revision: This option is not recommended on the grounds that many parts of the Constitution are inter-related and a piecemeal approach to amending it would risk embedding inconsistencies within the document.
- 4.24 Both options above would also not recognise that the Constitution has not been subject to a significant review since the adoption of the Committee system of governance in May 2013. It is therefore considered that a thorough review is overdue.

5. CONTRIBUTION TO STRATEGIC AIMS

- 5.1 The revised 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 themes: Healthy Environment; Thriving Communities; and Inclusive Economy by providing a sound basis for governance across the Council's activities. A clear and concise Constitution will also make a positive contribution to the TEAM Reading values, especially in promoting working together efficiently and effectively.

6. ENVIRONMENTAL AND CLIMATE IMPLICATIONS

- 6.1 The Council declared a Climate Emergency at its meeting on 26 February 2019 (Minute 48 refers). There are no specific environmental and climate implications to report in relation to the recommendations set out in this report, as it is purely about changes to the Council's procedures. It is anticipated that the report will be neutral in terms of affecting the Council's carbon footprint and on the environment and biodiversity of Reading.

7. COMMUNITY ENGAGEMENT AND INFORMATION

- 7.1 This report contributes by improving clarity to the Council's decision-making processes. This will enable councillors to fulfil their roles more effectively and make procedures and processes more transparent.

8. EQUALITY IMPACT ASSESSMENT

- 8.1 Under the Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to—
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.2 It is not considered that an Equality Impact Assessment (EIA) is relevant to the decisions arising from this report because the report concerns the revision of constitutional and operating arrangements to comply with or allowed by legislation.

9. LEGAL IMPLICATIONS

- 9.1 Section 9K of the Local Government Act 2000, as amended by Section 21 of and Schedule 2 to the Localism Act 2011, allows local authorities to operate a committee system form of governance.
- 9.2 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.
- 9.3 Under Part 2: Article 4 of the Constitution, changes to the Constitution are matters reserved to the Council to determine. As a result, the adoption of a new Constitution must be agreed by Council.

10. FINANCIAL IMPLICATIONS

10.1 The cost of the Constitution Review has been met from within existing budgets.

11. BACKGROUND PAPERS

11.1 There are none.