



Meeting: Council
Date: 13 July 2023
Classification: Part 1
Key Decision: No
Title of Report: **Review of the Constitution and Associated Matters**
Report Author: Colin Gamble (Head of Democratic & Electoral Services)
Cabinet Member: Cllr Tony Cox (Leader of the Council)

1. Purpose of Report

- 1.1 This report asks Council to approve more efficient and democratic practices through removing the restriction on Cabinet Members being able to exercise individual decisions. At present urgent decisions are taken by officers under the previous standing order 46. The proposed amendment as set out in this report will now enable cabinet members to act nimbly, which is common practice in other Councils. The amendment will also align the provisions of the constitution with the existing statutory powers available to the Executive.
- 1.2 The report also proposes amendments to the terms of reference of the Appointments and Disciplinary Committee and the Pay Policy Statement concerning Ex Gratia Payments.

2. Recommendation

- 2.1 **That Council approve the update to the constitution which deletes the words “*although no individual Cabinet Member shall have executive powers*” from Part 3, para 3.2.**
- 2.2 **That the Council approve the update to the constitution, under Part 3 Schedule 2, para 6.5.3, which updates senior officer job titles and added words ‘Power to approve Ex Gratia Payments, including retirement and business efficiency, with respect to the Head of Paid Service, Executive Directors and Directors.’**
- 2.3 **That Council approve an amendment to the Pay Policy Statement at Section 7 to include a new paragraph d. ‘*Ex Gratia Payments. Ex Gratia Payments must be agreed in advance by the Council’s Appointments & Disciplinary Committee.*’**

3. Background

- 3.1 The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure business is conducted in an efficient, transparent, and accountable manner.
- 3.2 The Monitoring Officer has a duty to keep the Constitution under review. All extensive changes to the Constitution, must be approved by Full Council. The last in-year amendments were approved at the Full Council meeting on 2nd March 2023.
- 3.3 The Council has historically chosen not to empower Cabinet Members to take decisions within their portfolio. Consequently, when an urgent decision is required on a matter as there is insufficient time for the matter to wait for the next Cabinet meeting, the decision is instead taken by an Officer.
- 3.4 Accordingly, it is proposed that the Council amends the Constitution removing all restrictions to individual cabinet members taking decisions. This change will make the constitution consistent with the statutory position, which is that the Leader can make provisions that specific Executive functions can be discharged by members of the Executive, thus permitting Cabinet Members to take urgent individual decisions concerning their portfolio. To this end individual Cabinet members will be more accountable for their portfolio.
- 3.5 Part 3, para 3.2 of the constitution as currently drafted states:
- “The scope of individual portfolios of the Cabinet Members are set out in this Part 3 Schedule 1(a), although no individual Cabinet Member shall have executive powers.”*
- 3.6 It is proposed that the final part of the sentence is deleted so Part 3, para 3.2 of the constitution will read:
- “The scope of individual portfolios of the Cabinet Members are set out in this Part 3 Schedule 1(a).*
- 3.7 Any decisions to be taken by individual cabinet members must still comply with the Access to Information Procedure Rules as set out at Part 4b in the Council’s Constitution This will require a written report (with the financial and legal implications fully addressed) which will be published alongside the record of decision following sign-off by the S151 Officer and the Director of Legal Services. All decisions taken must be within the budget and policy framework. Any urgent decisions taken by a Cabinet Member will follow Rules 15 or 16 of the Access to Information Procedure Rules.

- 3.8 It is necessary to update governance arrangements with respect to the Appointments and Disciplinary Committee to ensure that the Council is operating correctly and efficiently concerning employment matters. As part of this, updates to Part 3 Schedule 2, paragraph 6.5.3 corrects the terms of reference in relation to senior officer posts. Further changes include additional powers concerning Ex Gratia payments, which are standard practice for an Appointments and Disciplinary Committee. In support of these changes, it is also proposed amend section 7 of the Pay Policy Statement so that it aligns with the terms of reference of the Appointments and Disciplinary Committee.

4. Finance implications

- 4.1 None

5. Legal Implications

- 5.1 Under Part 1A, Chapter 2, Section 9E(2) of the Local Government Act 2000, the Leader may make provision that specific Executive functions shall be allocated to, and discharged by, an individual member of the Executive.

- 5.2 The Local Government Act 2000 requires the Council to have and maintain a Constitution. The Head of Democratic & Electoral Services / Deputy Monitoring Officer is satisfied that the Council's Constitution continues to fulfil its stated purposes, as set out in Article 1 of the Constitution.

6. Carbon impact

- 6.1 None

7. Equalities

- 7.1 None

8. Consultation

- 8.1 Not applicable

Background Papers - None