

Meeting: **Standards Committee**

Classification: Part 1

Key Decision: No

Title of Report: Review of Council Constitution (Principles)

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Executive Councillor: Cllr Ian Gilbert

1. Purpose of Report

- 1.1 To report to the Standards Committee on proposals for a review of the Council's constitution and the preparation of a refreshed constitution for adoption by the Council.
- 1.2 To identify for consideration by the Standards Committee the purpose of the proposals and to seek agreement as to the principles which will inform the content and format of the revised constitution.
- 1.3 To seek agreement as to a workplan and timeline with a view to completion by December 2024.
- 1.4 To seek agreement as to style and structure of the refreshed constitution.

2. Recommendations

- 2.1 To agree to undertake a review of the constitution in accordance with the indicative timescale.
- 2.2 Agree the principles which will form the basis of the review.
- 2.3 Agree the style and structure for the refreshed constitution.

3. Background

- 3.1 The Local Government Act 2000 (as amended) requires the Council to maintain a constitution which contains:
 - A copy of the Council's standing orders (rules);
 - A copy of the Council's code of conduct for councillors;

- Such information as the Secretary of State may direct; and,
 - Such other information (if any) as the Council considers appropriate.
- 3.2 The purpose of the constitution is to provide a framework within which the functions, roles and responsibilities of the Council is set out, the committees and bodies of which it is comprised, and provides clarity for all councillors and officers. As such, the constitution provides the structure and governance arrangements of the council, and the rules by which it operates and makes decisions.
- 3.3 The constitution needs to be accessible and understood by councillors, officers and members of the public, whose engagement and participation in matters affecting their communities should also be facilitated by the constitution.
- 3.4 The constitution should be considered as a 'living document' that is kept under review to ensure it evolves to reflect changes in the law and practice and remains relevant and consistent.
- 3.5 Ad hoc changes made to the current constitution over a number of years has resulted in inconsistencies arising within and between various aspects of its provisions. This has made it difficult to access and navigate, and recent changes to the political make-up of the Council are not adequately reflected nor effected within the current constitution and the Council's overall governance arrangements.
- 3.6 In line with recommendations of the Centre for Governance and Scrutiny and the findings of the Local Government Association Peer Review in 2022 Council agreed on 13 June 2024 that a fundamental review of the constitution be undertaken, and that a refreshed, legally compliant and effective constitution is prepared for adoption by the Council. This will be based upon an agreed set of principles which are embedded throughout. A link to the Centre for Governance and Scrutiny publication is included at section 7 of this report. The Standards Committee is invited to consider and agree these principles which will form the basis and a reference for the review. Suggested principles might include:
- Maximising councillor engagement and participation in decision-making;
 - Ensuring decision-making is informed, transparent and efficient;
 - Maximising the effectiveness of councillors and officers;
 - Public engagement is welcomed and encouraged.
- 3.7 Refreshing the constitution in its entirety is a major undertaking and the outcome will impact upon the council as a whole and affect each of its constituent elements. The work required will be significant and the engagement of councillors and officers is therefore essential in determining its scope, planning and delivery. It is intended that a refreshed constitution will be ready for adoption by Council in December 2024 and as such the timeframe for the completion of the work is challenging. The law firm Anthony Collins Solicitors LLP has been instructed to assist in scoping and planning the work, advise on

the structure and substantive provisions of the refreshed constitution, and will undertake its drafting.

- 3.8 The review and refreshing of the constitution will be overseen by the Standards Committee and in parallel with considering the principles set out above further in line with recommendations of the Centre for Governance and Scrutiny, the Standards Committee is also invited to consider the phasing of the work required and the resource implications of each as detailed below.

Stage 1 Identifying drivers for the review / refresh of the constitution, affirming ownership of the constitution and setting the scope and scale of the work

How the agreed principles will inform the arrangements and rules provided for in the constitution and ensure that councillors and officers individually and collectively are responsible for understanding and giving effect to the constitution as part of the Council's governance framework.

The internal and external factors to be considered in substance provisions of the constitution such as flexibility to manage changes in political circumstances, the development of positive, productive relationships between councillors, and between councillors and officers.

Considering the impact on the Councils' operations and service delivery of new governance arrangements provided for in the refreshed constitution.

Stage 2 Determining the structure of the refreshed constitution

Comparing the current Southend-on-Sea City Council modular constitution layout and structure with the examples of Liverpool City and Buckinghamshire where the content has been arranged in themes.

Considering the benefits of each and agreeing which would be the preferred format for the new constitution for the Council.

Stage 3 Embedding the agreed principles

How the agreed principles will be embedded in defining the roles and responsibilities of councillors and officers, scrutiny and decision-making, and the Council's partnership working with statutory and non-statutory bodies.

How can the structure and format of the refreshed constitution be designed to ensure it is accessible and simple to navigate, easy to understand and regularly reviewed. The structure and format of the refreshed constitution is further considered below.

Stage 4 Drafting the refreshed constitution

The drafting of the refreshed constitution will be undertaken by external lawyers to give effect to the agreed content and format.

This will be brought to Standards Committee in phases according to the agreed Work Plan, firstly to consider a first draft for comment and direction, followed by a final draft for approval. If required, additional revised drafts will be brought back to Committee for consideration and comment.

Stage 5 Adoption, embedding and familiarisation

Once approved by the Standards Committee, the refreshed constitution will need to be adopted by Council. Service delivery operating procedures will need to be reviewed and aligned with the provisions of the new constitution, appropriate training and support will be provided to councillors and officers as required.

3.9 The following high-level timeline of Standards Committee meetings work is proposed:

- July: 16th 2pm, 19th 2pm, 31st 4 pm
- September: 10th 4pm
- October: 7th 4pm, 15th 2pm, 22nd, 2pm
- November: 12th 2pm, 27th 4pm

Full Council: 12 December, 6.30pm

3.10 It is essential that the structure and design of the refreshed constitution provides for its accessibility, simplicity of navigation, ease of understanding and effectiveness. The form and content of local authority constitutions varies considerably, and many which have been revised in recent years have moved away from the traditional format based on 'articles' in preference for a structure which groups 'themes' or 'functions'. Buckinghamshire Council and Liverpool City Council are recommended as examples of modern constitutions. For comparison purposes, the contents pages of these constitutions, are appended, and links to the full Buckinghamshire Council and Liverpool City Council constitutions are included at section 8 of this report.

3.11 Once the high-level structure of the refreshed constitution has been agreed, it is proposed that work on the provisions and drafting of its constituent parts is undertaken systematically, following the structure of document. This will ensure the document 'flows' and is consistent and will assist with cross-referencing and the revising of drafts. Accordingly, it is proposed that drafts of each constituent part of the refreshed constitution will be considered by Standards Committee sequentially.

4. Financial Implications

We have been provided with an estimate of fees from the external solicitors who will be supporting the review of the constitution of £28k plus VAT. This can be funded as a one-off cost from the Council's 2024/25 contingency.

There are no new/additional costs associated with the redirection of constitutional matters from the General Purposes Committee to Standards Committee.

5. Legal Implications

It is a requirement of the Local Government Act that the Council has a constitution, there is a risk that the constitution in its current form may give rise to legal challenges about the Council's governance framework and decision-making procedures.

6. Equality Impact

There are no known Equalities impacts at this stage.

7. Consultation

Consultation with Members will be undertaken through the Standards Committee, which is a cross-party committee of Council, as well as engagement and training sessions with all councillors. There will be consultation with officers through engagement with all services through the drafting, decision-making and training processes.

8. Background Papers

Centre for Governance and Scrutiny: *The review and redrafting of constitutions: guidance for English authorities*

<https://www.cfgs.org.uk/?publication=the-review-and-redrafting-of-constitutions-guidance-for-english-authorities>

Southend of Sea City Council

- Current constitution contents page
[SOUTHEND-ON-SEA \(moderngov.co.uk\)](https://www.southend-on-sea.gov.uk/moderngov.co.uk)

Buckinghamshire Council

- Constitution contents page
- Full constitution:

<https://buckinghamshire.moderngov.co.uk/ecSDDisplay.aspx?NAME=Council%20Constitution&ID=1033&RPID=7084837>

Liverpool City Council

- Full constitution:

[Agenda for Constitution on Wednesday, 15th May, 2024 - Liverpool City Council](https://www.liverpool.gov.uk/agenda-for-constitution-on-wednesday-15th-may-2024/)

9. Report Authorisation

This report has been approved for publication by:		
	Name:	Date:
Deputy S151 Officer	Peter Bates	06/07/2024
Monitoring Officer	Susan Zeiss	08/07/2024
Executive Director(s)	Claire Shuter	08/07/2024
Relevant Cabinet Member(s)	Cllr Ian Gilbert	08/07/2024