

FAREHAM

BOROUGH COUNCIL

Report to Council

05 December 2019

Subject: **ANNUAL REVIEW OF CONSTITUTION**

Report of: **Deputy Monitoring Officer**

SUMMARY

At the Audit and Governance Committee meeting held on the 25 November 2019, Members considered a number of changes to the Council's Constitution as part of the Committee's annual review of the Constitution.

Council is now asked to approve these changes to allow them to take effect.

RECOMMENDATION

It is RECOMMENDED that the Council approves: -

- (a) the amendments to the Standing Orders with Respect to Meetings as set out in Appendix B, to the report;
- (b) the amendments to the Scheme of Delegation to Officers as set out in Appendix C, to the report;
- (c) the addition of the Anti Bribery Policy in Part 5 of the Constitution; and
- (d) the deletion of the Part 3 – Chapter 12 – Deputation Scheme.

INTRODUCTION

1. This report forms the Audit and Governance Committee's annual review of the Council's Constitution. The Audit and Governance Committee considered these changes at the meeting on the 25 November 2019 and now Council is asked to approve these changes in order for them to take effect.
2. This report is set out in four sections for Members' consideration and approval: -
 - i. The first part of this report for consideration, provides an overview of the work that has been carried out to keep the document up to date and the continued work to revamp the webpages to assist users accessing the information they require.
 - ii. Appendix A provides details of all the decisions that have been agreed by Council that have subsequently required changes to the Constitution document. For example, the change to the Senior Management Structure in February 2019 and the updates to the Financial Regulations in October 2019.
 - iii. Appendix B highlights all the changes which require approval to the Council's Standing Orders with Respect to Meetings.
 - iv. Appendix C sets out changes that are required to the Scheme of Delegation to Officers to delegate authority to the Head of Development Management to issue planning consents, the detail of which is set out in paragraph 16 to this report.

WEBPAGES AND ASSOCIATED DOCUMENTS

3. The website is the sole platform by which the Constitution document is now viewed. Officers within the Committee team monitor the pages regularly to make sure the pages are user friendly and the information is up to date.
4. Work is currently underway to create links and shortcuts to allow users to move through the document with ease. Links have also been created to other documents, such as legislation and other relevant pages within the Council's webpages to assist users in navigating around the document.
5. Alongside this work on the Constitution, Officers have updated supporting webpages, such as the Deputation and Petition procedure pages which ensure they are fit for purpose and mirror the schemes outlined within the Constitution document itself.
6. The Anti-Bribery Policy is now also to be added to the Constitution in Part 5 – Codes of Conduct. The Anti-Bribery Policy is a key Governance policy, so it is deemed appropriate by Officers for this to be included formally in this section of the Constitution.

AMENDMENTS REQUIRED THROUGH THE DECISION-MAKING PROCESS

7. Appendix A to this report lists all the decisions made at Council over the past twelve months which have subsequently required updates to the Constitution.
8. Not all the decisions listed explicitly outline the amendments made but allow delegated authority to amendments to be made where necessary. These amendments have been

updated on the webpages and the Constitution log has been updated accordingly.

9. Members are required to simply note that these changes have been made in accordance with the decisions previously made.

AMENDMENTS TO THE STANDING ORDERS WITH RESPECT TO MEETINGS

10. Following the initial amendments to the Constitution that were made in October 2018 to allow the creation of the new Scrutiny Panels to take effect, Officers found that further amendments were required to clarify the procedures under the new committee and Scrutiny Panel meetings structure.
11. On reviewing the document several other updates were discovered and the decision was made by the Head of Democratic Services to conduct a full review of the Standing Order with Respect to Meetings, which have not been updated since December 2013.
12. The areas for review were identified and several meetings with the Southampton legal team were held to analyse the document in more detail.
13. The changes to the document are shown in Appendix B, by way of track changes with notes to explain the rationale for the amendments.
14. Key changes are the addition of a section on the call-in procedure to clearly outline how this process now differs from the ordinary Scrutiny Panel meetings, and there is also the addition of a Petition Scheme which until now was not included within the Constitution document.
15. An additional change for Council to approve, is to remove the Deputation Scheme from the main part of the Constitution as it currently is duplicated in Part 3 – Chapter 12 and the Standing Orders with Respect to Meetings – Appendix One and Two.

AMENDMENTS TO SCHEME OF DELEGATION TO OFFICERS

16. As part of the work to review the Constitution some updates have been made to the Scheme of Delegation to Officers. The wording has been updated to ensure the scheme reflects the delegation of both Executive and non-Executive functions.
17. An additional paragraph has been added to the scheme, under the Delegation to the Head of Development Management, as a result of the following -

Before the Council can grant planning permission for residential development, it must carry out an appropriate assessment under the Conservation of Habitats and Species Regulations 2017 and conclude that the development will not have an adverse effect on the integrity of European protected sites.

During the early part of 2019, Natural England highlighted that increased levels of nitrates entering The Solent (because of increased amounts of wastewater from new dwellings) is likely to have a significant effect upon European protected sites.

18. There are twelve planning applications (comprising 822 dwellings) that have a resolution to grant planning permission from the Council's Planning Committee but where the formal decision notice has not yet been issued. These resolutions pre-date Natural England's current advice.

There is a need to undertake appropriate assessments on each of these 12 planning applications, which the Planning Committee has resolved to grant planning permission for. Once the appropriate assessments have been undertaken, there is also a need to consult with Natural England.

Where an appropriate assessment concludes that the proposed development will not have an adverse effect on the integrity of designated sites (with any necessary mitigation), the proposed change to the Scheme of Delegation would enable the Head of Development Management to determine these planning applications, following due consideration of any further material planning considerations, and amendments to and/or additional planning conditions and amendments to and/or additional heads of terms in related planning obligations where necessary, to address any likely significant effects identified through appropriate assessments.

19. This delegation relates solely to those 12 planning applications which the Planning Committee have previously considered and resolved to grant planning permission for.

CONCLUSION

20. It is RECOMMENDED that the Council approves: -
- (a) the amendments to the Standing Orders with Respect to Meetings as set out in Appendix B, to the report;
 - (b) the amendments to the Scheme of Delegation to Officers as set out in Appendix C, to the report;
 - (c) the addition of the Anti Bribery Policy in Part 5 of the Constitution; and
 - (d) the deletion of the Part 3 – Chapter 12 – Deputation Scheme.

Appendices: Appendix A - Decisions made since November 2018 which have required amendments to be made to the Council's Constitution.

Appendix B – Standing Orders with Respect to Meetings

Appendix C – Scheme of Delegation to Officers

Background Papers: NONE

Reference Papers: The Constitution

- Report to Council - Constitution Updates Following Committee Structure Changes – 13 December 2018
- Report to Council - Senior Management Structure – 23 February 2019
- Council Minutes – 24 October 2019
- Audit and Governance Committee Minutes – 25 November 2019

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