

REPORT TITLE: REVIEW OF THE WINCHESTER CITY COUNCIL
CONSTITUTION 2023

30 NOVEMBER 2023

REPORT OF THE MONITORING OFFICER

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WARD(S): ALL

PURPOSE

The Winchester City Council Constitution requires the Monitoring Officer to monitor and review the operation of the Constitution to ensure that its aims, principles and requirements are given full effect.

A cross party Constitution Working Party has undertaken this work supported by the Monitoring Officer. The draft Constitution with the proposed amendments was made available for all members of the Audit and Governance Committee for comment and was considered. Recommendations and comments made by the Audit and Governance Committee were considered by the Constitutional Working Party and amendments have been incorporated in this report.

RECOMMENDATIONS:

Council is asked:

1. To note the comments and recommendations of the Audit and Governance Committee as set out in Appendix 1.
2. To adopt the proposed amendments to the Council's Constitution as set out in Appendix 2.
3. That the Monitoring Officer be authorised to make any necessary further changes to the proposed amendments to the Council's Constitution in relation to formatting, numbering or such other changes consequential to or incidental to the intentions of Full Council.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

1.1 KEY PROPOSALS FOR CHANGE

The Council has undertaken a review of its Constitution to ensure it is providing a framework for effective and lawful decision making which is transparent, accountable and encourages community involvement.

2 FINANCIAL IMPLICATIONS

2.1 As part of this review financial procedure and contract procedure rules have been cross checked against both current best practice and legislation and are considered fit for purpose. The Section 151 Officer and her team were consulted.

2.2 There are no ongoing financial implications.

2.3 There are no savings in respect to any special responsibility Member allowances as no changes are recommended to the structure of any committees, whether Regulatory or Overview and Scrutiny.

2.4 The review ensured that any amendments to the Constitution would allow for the Council to continue to be efficient and effective.

3 LEGAL AND PROCUREMENT IMPLICATIONS

3.1 The Council has a legal duty, under section 9P of the Local Government Act 2000 (LGA 2000), to publish an up-to-date Constitution and keep it up to date with any necessary changes.

3.2 Section 9P of the LGA 2000 states that the Constitution must contain:

- a. The standing orders/procedure rules;
- b. The Members' Code of Conduct;
- c. Such information as the Secretary of State may direct; and
- d. Such other information (if any) as the Council considers appropriate.

3.3 It is further stated that Constitutions must be available for public inspection at all reasonable hours and supplied to anyone who requests a copy on payment of a reasonable fee. The Council's Constitution is available on the Council's website.

3.4 In December 2000 the Secretary of State issued a Constitution Direction that required around 80 matters to be included within Constitutions, covering Members' allowances schemes, details of procedures for meetings, details of

joint arrangements with other local authorities, and a description of the rights of inhabitants of the area amongst other things.

- 3.5 A Model Constitution was also issued in 2000 (Modular Constitutions for English Local Authorities) which most Councils adopted and which continues to form the basis of many local authority Constitutions.
- 3.6 The 2019 Winchester City Council Constitution, the current Constitution, generally follows the format of the model Constitution recommended by the Association of Local Authority Lawyers in 2000. It comprises 7 Parts as detailed below. It is not proposed to make any fundamental changes to the format:
- a. Part 1 - Summary and Explanation
 - b. Part 2 - Articles 1-16
 - c. Part 3 - Responsibility for Functions
 - d. Part 4 - Rules of Procedure
 - e. Part 5 - Codes and Protocols
 - f. Part 6 - Members Scheme of Allowances
 - g. Part 7 - Organisational Management Structure.

4 WORKFORCE IMPLICATIONS

- 4.1 This review has included an update to the officer scheme of delegation which allows for better clarity for the workforce, Councillors and members of the public.
- 4.2 Prior to and after adoption, sessions will be held with relevant officers to ensure that they understand their own responsibilities, and the responsibilities of others. It will further facilitate strong and effective relationships and understanding of the overall governance framework of the Council.

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 None.

6 CONSULTATION AND COMMUNICATION

- 6.1 The Constitution Working Party comprised of Councillors from each of the political groups represented on the Council. Relevant service areas were also consulted on technical matters within the Constitution.
- 6.2 The meeting of the Audit and Governance Committee on 9th November 2023 was a crucial part of the engagement process with Councillors. Members of that Committee considered the proposed amendments in detail and at length.

- 6.3 Eight recommendations were agreed by the Audit and Governance Meeting. These Being:
- Rec 1 - Part 1.2 Interpretation Section - Definition of Informal Working Groups to be included.
- Rec 2 - Part 1.2 Interpretation Section – Consideration to be given to changing the wording in the introductory sentence from “may be” to “will be”.
- Rec 3 - Part 4.4 – Paragraph 22.5 – Consideration to be given to reviewing the use of exempt definition.
- Rec 4 - Article 4 – Paragraph 4.06 (d) to be redrafted to improve readability.
- Rec 5 - Pages 217 -220 of agenda pack (the Budget Council meeting procedure) to be deleted.
- Rec 6 - The proposed start time of 6.30pm for Full Council meetings to be reviewed in due course.
- Rec 7 - Part 4.1 Paragraph 16 – Consideration be given to using the same process for members of the public questions as councillor questions for expediency.
- Rec 8 - Part 4.1 Paragraph 20.5 – Consideration to be given to publication of the alternative budget to be immediately after approval of the Section 151 Officer.
- 6.4 Other points agreed/noted by the Audit and Governance Committee where:
1. The revised Constitution including proposed amendments from the A&G Committee would be submitted to Council on 30 November with the recommendation that it comes into force from 1 January 2024. It was agreed that the revised Constitution be considered by a meeting of the Constitution Working Group prior to being submitted to Council.
 2. Noting that work on adopting the LGA Model Code of Conduct would commence in the new year including meetings of the Constitution Working Party.
 3. Noting that once officially published, the revised Constitution would include improvements to its functionality including hyperlinks and “intelligent” indexing.
- 6.5 An extract of the minutes of the Audit and Governance Committee Meeting are available in Appendix 1.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 Any reference to hard copies being supplied has been removed and replaced by electronic copies being accessed or availability on the Council's website unless requested. After Covid 19, back in May 2021 the High Court ruled to make the continuation of hybrid statutory meetings unlawful so these meetings have to take place in Council Offices. Since then, the Council livestreams its statutory meetings and makes them available on the Council's website. The council embraces hybrid meetings for all non-statutory meetings and briefings wherever possible to facilitate and encourage greater engagement in local democracy.

8 PUBLIC SECTOR EQUALITY DUTY

- 8.1 The Constitution is reviewed generally to ensure that the format is easily accessible. This is an important step in ensuring that access to the democratic process is equitable.
- 8.2 An Equality Impact Assessment (EqIA) has not been completed as it is not in scope for the Constitution Review. The review supports the effective functioning of the Council, which increases the potential for positive impacts on equality because of the Council's activities. The report does not otherwise raise any implications for equality and diversity.

9 DATA PROTECTION IMPACT

- 9.1 A Data Protection Impact Assessments (DPIA) has not been completed because there are no identifiable risks/issues to the rights and freedoms of natural persons.

10 RISK MANAGEMENT

Risk	Mitigation	Opportunities
<u>Financial Exposure</u> Policy and Budget Framework Procedure Rules were reviewed and amended to give clarity of rules on in year and one-off budgets. Financial Procedure Rules were reviewed, and benchmarking exercise undertaken on delegation. Contract Procedure Rules have been reviewed and	Decisions can be taken at an appropriate level in the proposed constitution.	A compliant, clear Constitution can enhance the reputation of the council by being clear, open and transparent about its financial decision making and how money can be spent and by whom.

amended to incorporate legal updates and post Brexit changes.		
<u>Exposure to challenge</u> The Constitution must adhere to legislation otherwise the Council could be subject to legal challenges and claims for costs.	The proposed Constitution adheres to legislation.	A compliant, clear Constitution can enhance the reputation of the council by being clear, open and transparent about its decision making.
<u>Innovation</u> Much of what can comprise a Constitution is set down in legislation. However, the review has sought to continually organise this in such a way as to make it workable and appropriate for the City Council.		
<u>Reputation</u> If the Council does not have an appropriate decision-making framework in place, and cannot make timely decisions or take appropriate actions, the Council's reputation will be compromised.	The proposed Constitution has provided for appropriate decision making	A compliant, clear Constitution can enhance the reputation of the council by being clear, open and transparent.
<u>Property</u> Decisions on property matters are clearly set out in the constitution.	The proposed Constitution has a clear and appropriate decision making structure.	A compliant, clear Constitution in respect of property matters can enhance the reputation of a council by being clear, open and transparent to those who seek to do business with the Council.
<u>Community Support</u> The Constitution should enable residents and other stakeholders to engage with the decision-making process in clear and accessible ways.	Commitment remains to ensuring the decision making processes are clear and transparent in the new constitution.	Good access to decision making can enhance the reputation of the council.

<u>Timescales</u> Authorising the changes now will enable the new Constitution to be in place immediately.	The proposals will be reported to Full Council at its next available meeting in order for the improvements to come into effect as soon as possible.	
Project capacity N/A		
Other		

11 SUPPORTING INFORMATION:

- 11.1 A full and detailed review of the Constitution was undertaken between 2017 – 2019 and presented to Full Council in March 2019. The new Constitution was adopted at that meeting and came into effect in May 2019.
- 11.2 This is a lighter touch review to ensure that the Constitution remains fit for purpose, ensures consistency between the various parts, continues to meet its legal requirements and aims to improve, where possible, the quality of the drafting so that it is clear and comprehensible.
- 11.3 The cross-party Constitution Working Party comprising of Councillors Becker, Horrill, Godfrey, Wallace, Tippet-Cooper, Small and Reach assisted with this work, supported by the Monitoring Officer.
- 11.4 Eleven meetings of the Working Party were held in total. Those matters agreed and proposed have been included.
- 11.5 Consideration and outcomes of the final meeting of the Constitution Working Party on held on 16th November 2023 to consider the recommendations from A&G Committee have been detailed in the relevant Article or Part highlighting the changes within this report.

12. Format of the draft 2023 Constitution

- 12.1 This report details the proposed changes to the Constitution and these are set out in Appendix 2. This is shown with the amended or inserted text highlighted for ease of reference. Proposed changes of the Constitution Working Party have also been incorporated and highlighted in green with the Monitoring Officer's changes shown in yellow. Changes made as an consequence of the recommendations from Audit and Governance Committee are shown in blue.
- 12.2 The majority of changes include typographical changes and /or language updates to ensure consistency of language where there is a mix of Cabinet/Executive, Full/Council/, Portfolio Holder/Cabinet Member, inconsistent names of committees, Section 151 not s151 and Chief Finance Officer and not CFO. Errors and omissions have been addressed. There has

been an update of job titles, for example; Strategic Director, Director, Corporate Head and Heads of Programmes.

- 12.3 Hyperlinks will be added to all references to other areas, for example, to the Rules and Protocols, the Petition Scheme, Complaints Scheme and the Management Structure Chart to assist with navigating around the document.
- 12.4 Page numbering and formatting will be addressed fully and there will be the addition of a more intelligent contents page that will hyperlink to the relevant pages. Text shown in red indicate where hyperlinks will be used.
- 12.5 Special regard was also had to existing and emerging legislation as well as how decisions are taken as this is a key part of the Constitution which sets the tone for the culture the Council wishes to operate. This includes the balance between:
- Cabinet collective decision making or powers of the Leader; and
 - Member decision making or officer delegation.

The right balance must also be struck in the Constitution to ensure:

- Recognition that the Council is a member-led authority;
- Appropriate transparency and involvement in decision making;
- Efficiency of business; and
- The ability to respond swiftly to events (whilst ensuring probity and checks and balances)

13 THE MATERIAL AND FUNDAMENTAL CHANGES

13.1 Part 1.2 Interpretation Section of terms used in the Constitution

The changes made here reflect language updates, for example, the change of the word from Member to Councillor and the word Citizens to Members of the Public. Updates due to changes to the Procurement Procedure and Regulations have also been made. The definition of 'clear day' has been added for clarity and other omitted definitions have been added.

Recommendation 1 from Audit and Governance Committee asked for a definition of Informal Working Groups to be included. This has been added and shown drafted in the relevant section shown highlighted in blue.

Recommendation 2 from Audit and Governance Committee asked for consideration to be given to changing the wording in the introductory sentence from "may be" to "will be". After consideration by the Constitution Working Party, it was agreed that instead of 'will be' as suggested the word 'are'

should be used. The redrafted blue highlighted sentence reads, 'The Constitution contains references which 'are' defined as follows:'.

13.2 Part 1, Summary and Explanation

Typographical corrections have been made as well as language updates. The Constitution Working Party asked for additional information and narrative regarding the historic nature of the City and District. This has been added as requested.

Wording has been added to comply with the principles of good governance these being;

- focusing on the Council's purposes and on outcomes for the community and service users,
- performing effectively in clearly defined functions and roles,
- promoting values for the whole organisation,
- demonstrating the values of good governance through behaviour,
- taking informed, transparent decisions and managing risk,
- engaging stakeholders and making accountability real.

The commitment by Councillors to act in accordance with the Nolan Principles to maintain public confidence and ensure high standards in the way they undertake their public duties, in reference to the Localism Act 2011 has been added.

The Constitution Working Party's proposal to change the term 'Members of the Public' rather than 'Citizens' mentioned above in paragraph 12.1 and defined in the interpretation of terms is shown highlighted. This is proposed as the Working Party felt the term is more modern, all encompassing, and easier to understand. This change has been reflected throughout.

13.3 Part 2, Article 1 The Constitution

Typographical corrections as well as a very minor language update has been made here.

13.4 Part 2, Article 2 – Members of the Council

Very minor typographical corrections have been made as well as a language update, in particular reference to the word 'Members' has been removed and 'Councillor' now replaces it as mentioned above in paragraph 12.1 in the changes to the interpretation of terms. The Constitution Working Party felt using both terms 'Member' and 'Councillor' was confusing and that the term 'Councillor' is a more commonly known term.

13.5 Part 2, Article 3 – Members of the Public

There are very minor language updates, and hyperlinks that need to be added for ease of reference. There is the addition of a statement of engagement with members of the public and an expectation that members of the public will treat officers and councillors with courtesy. The Constitution Working Party agreed that the removal of 'and the' leaving, 'all the people of Winchester District' was more inclusive rather than worded separately 'Winchester and the District'. Again, the change from 'Citizen' to 'Members of the Public' has been made.

13.6 Part 2, Article 4 – Full Council

Typographical corrections, language updates and hyperlinks have been added.

The Constitution Working Party requested to make annual mandatory reports of representatives from outside bodies where powers have been conferred to them, in particular Partnerships for South Hampshire and the South Down National Park Authority. In practice those representatives on other bodies can approach the Monitoring Officer and the permission of the Mayor will be sought and then an item added to an appropriate Full Council meeting agenda.

The Constitution Working Party proposed that Venta Living Ltd, the Council's housing company, be mandated too. The Monitoring Officer advised that the shareholder agreement details the governance route for the reporting and therefore it is not necessary for this to be incorporated in the Constitution. Venta Living Ltd has not been added.

Recommendation 4 from the Audit and Governance Committee required that Paragraph 4.06 (d) that clarifies it is Full Council that approves decisions outside of the Budget and the Policy framework and Budget framework, be redrafted to improve readability. Although the Monitoring Officer advised the Constitution Working Party that this was a standard clause taken from the 2000 Model Constitution a suggested redraft was tabled that made the paragraph easier to read and understand. This has been reflected in the drafting and shown highlighted in blue in the relevant Part of the proposed constitution.

13.7 Part 2, Article 5 – Chairing the Council

There are very minor language updates in this Article. At the Constitution Working Party meeting it was questioned whether the word 'efficiently' should be used, and comments made that democracy and transparency should not be measured by efficiency. The Monitoring Officer did not agree as the term efficiency can be found in 2000 Model Constitution. It is taken from the duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as

implemented by the Council. Particularly and even more so, in these difficult financial times, the Council must act efficiently in all activities it undertakes. The Monitoring Officer added the word 'effectively' for completeness.

13.8 Part 2, Article 6 – The Cabinet

Typographical corrections and minor language updates have been made and the only addition is that of the appointment of Outside bodies as this had been omitted from present version of the Constitution. A reference to the Deputy Leader acting on behalf of the Leader in the Leader's absence has been added for clarity.

13.9 Part 2, Article 7 – Overview and Scrutiny Committees

This has been updated to reflect the current position of the Committees with other minor amendments as well as minor typographical corrections.

The main changes here have been added by the Constitution Working Party.

They proposed the addition of the wording to reference the Forward Plan so it will read that 'Scrutiny Committee, which has a strategic outlook and solely holds the power of Call-In, *having access to the Forward Plan*'. Also proposed is the addition to allow the Monitoring Officer's discretion with regard to which Committee and / or Policy Committee is appropriate for cross-cutting decisions and policy making. This will work in practice by holding regular meetings with the Monitoring Officer, the Chair of Scrutiny Committee and the Chairs of the two policy Committees collectively in order to agree the work programmes where there may be doubt which is the most appropriate committee to consider an item. The two Strategic Directors support a policy committee and the Chief Executive supports the scrutiny committee will continue to do so, providing detailed support for each agenda.

Comments from both the Constitution Working Party and the Audit and Governance Committee were made with regard to having an extended Forward Plan. It has been proposed by the Monitoring Officer that a Forward Plan showing 3 months of Key Decision reports and also continuing any regular set annual items that are known in advance will be published to aid in transparency and accountability.

The Business and Housing Policy Committee has been updated to the 'Economy' and Housing Policy Committee and the relevant Council priority areas have been updated.

13.10 Part 2, Article 8 – Regulatory and Non-Executive Decision Making Committees

The language has been updated and details of the Housing Appeals Committee has been added as these were omitted from the current Constitution.

13.11 Part 2, Article 9 – Audit and Governance Committee

The language has been updated and there has been reordering of paragraphs. Clarity of Standards Sub-Committee has been added stating the delegated responsibility to consider investigation reports, in respect of Code of Conduct complaints, that are referred to it by the Monitoring Officer. Along with the ability to conduct hearings to consider allegations that a Councillor or co-opted Councillor of the Council or Town/Parish Council has breached the relevant code of conduct.

13.12 Part 2, Article 10 – Area Committee and Forums

The language has been updated.

The Council has currently 3 Area Forums, North Whiteley, West of Waterlooville and Kings Barton. Conversations and negotiations are in place to discontinue both North Whiteley Area Forum and West of Waterlooville Area Forum, taking all considerations into account, and at the appropriate time but clarity is needed with regard to when that appropriate time is met. Therefore, there has been an addition for the dissolution of a Forum; Area Committee and Major Development Area Forum. It is proposed by the Monitoring Officer that they will continue until it is considered that adequate and appropriate governance is in place with at least 6 months' notice being given of the intention of the Council to disband the Area Committee and Major Development Area Forum.

Reference to the Winchester Town Forum has been moved within the article and amended slightly to clarify the role of the Forum, setting out its budgetary role and its role as a consultative and advisory body to the Council in a comparable way to Parish and Town councils in the rest of the District except for on regulatory matters where Town and Parish Councils are statutory consultees and ward Councillors are consulted in their own right.

13.13 Part 2, Article 11 – Joint Arrangements

The is a very minor language update only.

13.14 Part 2, Article 12 – Officers

The language has been updated and typographical errors have been amended. The Constitution Working Party have proposed to include that the Section 151 Officer advises Executive Leadership Board to be reflected.

13.15 Part 2, Article 13 – Decision Making

The language has been updated which has allowed for clarity in financial areas for example, the threshold Key Decision figure is 'annual' expenditure for a contract or scheme.

When the Party Whip cannot be used has been added for clarity.

13.16 Part 2, Article 14 – Finance, Contracts and Legal Matter

The language has been updated.

The Constitution Working Party asked for clarity from the Monitoring Officer regarding contracts under the value of £10,000 as this isn't detailed. The Monitoring Officer advised that all agreements made verbally or otherwise under the value of £10,000 are recorded by the raising of a purchase order that is subject to authorisation and recorded. All contracts over the value of £5,000 are recorded on the Contracts Register found on the Council's website as part of the Council's publication scheme. All expenditure over £500 is also published and this has been reflected in the relevant Part 4.7 – Contract Procedure Rules.

13.17 Part 2, Article 15 – Review and Revision of the Constitution

Very minor typographical changes have been made.

This Article states that the Constitution updates are delegated to the Monitoring Officer to change (errors, changes in law, role names) and the Monitoring Officer proposed these changes to be reported to Audit & Governance Committee, not Full Council, which is the requirement now under the present Constitution. The Monitoring Officer proposed this could easily be reported in the Audit & Governance Committee quarterly monitoring report. The Constitution Working Party were not content with that and want the requirement of the report to go to Full Council to be reinstated therefore it is drafted accordingly.

13.18 Part 2, Article 16 – Suspension, Interpretation and Publication

No changes but included for completeness.

13.19 Part 3.1 - Responsibilities for Functions

Very minor change to update to reflect current Committees.

13.20 Part 3.2 - The Cabinet, its Committees and Cabinet Member Structure

The language has been updated and the three Cabinet Committees together with their Terms of Reference has been added. The delegated and referred matters have been revised to reflect the purpose of the Cabinet Committee

and to allow the majority of decisions to be made and not referred to Cabinet unless appropriate.

Changes to the matters referred to Cabinet are from Cabinet Committee Housing which includes approving the annual Business Plan for the wholly owned Housing Company and any other shareholder agreement reserved matter decision.

The Constitution Working Party wanted the language checking to make sure the programmes and strategies were correctly worded in the Terms of Reference for Cabinet Committee Housing. This has been reviewed with input from the relevant Strategic Director.

There is also the addition of the Monitoring Officers discretion being used to determine which of the Overview and Scrutiny Committees or Cabinet Committees are appropriate for pre-scrutiny and decision-making purposes.

13.21 Part 3.3 - The Regulatory Committees and Other Non-Executive Decision Making Committees

The language has been updated and drafted to allow for legislation updates.

The Constitution Working Party wants to allow for the discussion of Planning matters by the Winchester Town Forum but the Monitoring Officer had reservations on this. There could be conflicts of interests that would need to be dealt with for Councillors that sit on the Planning Committee. Councillors are already able to make representations in their role as a ward Councillor.

In order to allay the Monitoring Officers concerns, the matters dealt with by the Forum have been amended to remove the prohibition of discussion of regulatory matters, but the Town Forum is not acting as consultee and acknowledges the role of statutory consultees and ward Councillors. There has been an addition to the Conflict of Interest Rules for the regulatory committees to reflect the amended Forum scope. It has been drafted accordingly to explicitly say 'except on regulatory matters in particular planning or licensing applications, where Town and Parish Councils are statutory consultees and ward Councillors are consulted in their own right'.

A further clause has been added to clarify the role of the Forum, this being, 'To collaborate with neighbouring Parish and Town Councils on items of common interest' for completeness.

The functions delegated to the Joint West of Waterlooville Major Development Area Planning Committee were discussed at length at the Constitution Working Party and comments were made at the Audit and Governance Committee Meeting. The Monitoring Officer advised and confirmed that the delegations are written and exercised by officers correctly, however Parish Councils and ward Councillors are reminded that they can call applications to the Joint Committee. The Constitution Working Party advised that they were

committed to collaboratively working with neighbouring authorities that share a common interest, effectively using the governance that is in place.

13.22 Part 3.4 - Scheme of Delegation to Officers

A review of delegations to officers has been undertaken to ensure the relevant officers are authorised to act in law. This has given greater clarity of that role and confidence to officers.

There is a requirement to keep a register of delegated decisions and record of those authorised. Other Returning Officer delegations have been added to cover full remit of deputy requirements. There is clarity of hierarchy regarding delegations for Chief Executive, Statutory Roles, Strategic Directors and Corporate Heads named delegations. There is now clarity of delegation in an emergency.

Although the majority of this section is the same content as the present Constitution it has been reordered giving a more streamlined decision-making process and allows for the efficient delivery of its services with the necessary delegated authority to officers to perform their roles and responsibilities.

13.23 Part 4.1 – Council Meeting Procedure Rules

The Monitoring Officer has sought to modernise language to ensure consistency as with the rest of the document to ensure complete transparency for Councillors and members of the public as to how the Full Council meeting is run. To that end the Monitoring Officer has been clear that the Council Procedure Rules are renamed Council 'Meeting' Procedure Rules. The Monitoring Officer has also taken on board comments from new Councillors about their experiences in Full Council and has made more use of subheadings and numbering. Where there is well used and followed practice and procedure the Monitoring Officer has sought to reflect this in the text in order to deliver greater transparency.

The fundamental change here relates to a process for a standalone Budget Council meeting being added and proposed by the Monitoring Officer. There were 2 documents, Procedure Rules for meetings and an additional procedure note that would sit outside of the Constitution. The budget procedure note would be populated and circulated each year with the relevant dates to be 100% clear and transparent. The reasoning for recommending the standalone procedure is that we now have another political group, so it made clear how they can both interact with the budget process.

The standalone Budget paper has been rejected by the Constitution Working Party but some of the procedural elements of this Budget procedure have been added to the Council Meeting Procedure Rules for Budget Meetings. There is a distinction made between Alternative Budget and Amendment to Budget. Where an Alternative Budget is being proposed, the proposing group or Councillor must have:

- Secured confirmation from the Section 151 Officer that the alternative budget meets the statutory requirements and that the alternative budget proposed is deliverable. This must be confirmed within sufficient time to allow for 6 clear days prior to the budget meeting.

The other amendment is that

- any proposed Alternative Budget for consideration at the Full Council meeting will be published 48 hours (excluding Bank Holidays and weekends) prior to the budget meeting and be taken in the order in which they have been proposed to the Section 151 Officer.

Recommendation 5 of the Audit and Governance Committee asked for the separate Budget procedure paper to be deleted. This has been reflected in the drafting.

The Council Meeting Procedure Rules are applied to Committees and Sub-Committees. This was previously referenced at the very end of the Council Procedure Rules but has been moved forward so everyone is aware of how the rules apply to other committees. It has also been added that in the application of these rules to meetings other than Full Council meetings, greater informality may be exercised at the discretion of the Chairperson of the meeting. This recognises both the status of Full Council meetings as the most formal of meetings and that Chairpersons of other committees might require some flexibility in how best to conduct the business that they have to undertake.

Previously no public or Councillor questions were allowed at Extraordinary Council meetings. This has been amended to allow questions that relate to the business on the agenda. So, for example only, if there was an extraordinary meeting of Full Council on Central Winchester Regeneration questions would now be able to be asked on that subject.

Wording has been added to be more explicit in respect of appointment of deputy Councillors. The old wording did state that no substitutions of membership may be made during the course of the meeting, but this has been expanded to explicitly say that this continues to apply in circumstances where a meeting is adjourned and reconvened at a later date.

Council meetings are historically the longest meetings, particularly for the meeting that sets the Budget for the following year. The time of the Council meeting was always at 7.00pm whereas all other meetings tend to start at 6.30pm. The Constitution Working Party agreed that a 6.30pm start time for Full Council meetings was not prohibitive and would assist with the late end times.

Recommendation 5 of the Audit and Governance Committee asked that the new 6.30pm start time be reviewed in due course. This will form part of the work of the Constitution Working Party in the future.

The Constitution Working Party discussed a maximum meeting limit and proposed a maximum meeting time of 5 hours although 3 hours was proposed by the Monitoring Officer. This being the most common meeting time limit given for a standard Full Council Meeting. The Monitoring Officer advised that the 3 hours maximum is the correct balance for those attending the meeting that have families, work and / or other responsibilities where a very late finish time can have an impact. As no consensus could be derived this will be reviewed as part of the ongoing work with the Monitoring Officer and the Constitution Working Party.

Limiting the number of Notices of Motion was discussed with a 'limited to 3' proposed. This was rejected by the Constitution Working Party.

The Quorum (minimum number of Councillors) has been reworded and now explicitly states what 'quorum' means. New wording also outlines how the Mayor will treat the meeting where there are issues with quorum.

There are additions to the scope of questions at Full Council and the Constitution Working Party considered limiting the number of questions 'on notice' but agreed not to change. The Monitoring Officer proposed whether to allow questions at the meeting 'not on notice', only. The Constitution Working Party did not agree to any changes to Questions at Council.

However, *recommendation 7 from the Audit and Governance Committee* asked for consideration be given to using the same process for members of the public questions as councillor questions for expediency. At the final meeting of the Constitution Working Party, on consideration it was agreed that the same process be used for both members of the public and Councillors in that written answers will be published to questions submitted following the meeting and all members of the public will be notified accordingly. The change has been made to allow the asking of the substantive question to take place at the meeting rather than only hearing the reply and the supplementary question. This will be the case for both members of the public and Councillors, allowing for a much clearer, more understandable, and transparent Council Question session. The Councillor question time has been extended from 30 minutes to 40 minutes to help facilitate the change.

Recommendation 8 of the Audit and Governance Committee asked that consideration be given to the publication of an Alternative Budget to be immediately after approval of the Section 151 Officer. This was considered by the Constitution Working Party, but it was decided that no further change in drafting was necessary and acknowledged that approval of the Alternative Budget by the Section 151 Officer was needed 6 clear days prior to the Budget meeting but publication was to remain 48 hours before the Budget Meeting.

13.24 4.2 - Cabinet Procedure Rules

There are language updates with the addition of the appointment of Informal Working Groups. The Constitution Working Party commented on rules around public speaking for members of the public and visiting councillors. The current practice has been added for clarity as it is set out similarly for Decision Days in the present Constitution.

13.25 Part 4.3 – Overview and Scrutiny Procedure Rules

The language has been updated for clarity of the Call-In procedure.

A 'firebreak' period between a person being on Cabinet and sitting on the Scrutiny Committee has been included. Guidance on arrangements needed to deal with conflicts of Cabinet members and Scrutiny functions is given in the statutory guidance on Overview and Scrutiny issued by the Ministry of Housing Communities and Local Government hence the addition. The Constitution Working Party were in agreement with this. The Constitution Working Party proposed the addition of where there are cross cutting matters the Monitoring Officer has the discretion to determine which of the Overview and Scrutiny Committees are appropriate for pre-scrutiny purposes.

13.26 Part 4.4 – Access to Information Procedure Rules

The language has been updated and the Constitution Working Party wanted the addition of digital recordings to be accessible on the website in line with the Council's retention policy and data protection law.

Recommendation 3 from the Audit and Governance Committee asked for consideration to be given to reviewing the use of the Exempt Information definition. The Monitoring Officer advised the Constitution Working Party that the drafting in this Part is taken from the 2000 Model Constitution and the definition of Exempt Information is taken from Part 1 Schedule 12A of the Local Government Act 1972. The Constitution Working Party agreed that no change to the drafting was necessary.

13.27 Part 4.5 - Policy and Budget Framework Procedure Rules

The language has been updated to provide clarity of the rules on in-year one off revenue budgets and external revenue funding.

13.28 Part 4.6 - Financial Procedure Rules

The language has been updated to ensure delegation limits are consistent throughout.

13.29 Part 4.7 - Contract Procedure Rules

The language has been updated to include legal updates, the new Procurement Policy Note that was issued mid-process and post-Brexit

changes. Also added that the Service Lead Legal may delegate authority for the opening of the tender submissions if they are not able to be present.

13.30 Part 5.2 - Members Officer Relations

There are very minor language updates here.

14 OTHER OPTIONS CONSIDERED AND REJECTED

14.1 No other options have been considered in this instance as these recommendations are being made by the Monitoring Officer to Full Council

15 NEXT STEPS

15.1 Once the proposed revised Constitution is approved by Full Council it will be implemented from 1st January 2024. Briefings to both Councillors and officers have been undertaken to explain the practical implications of implementation.

15.2 The Constitution Working Party will assist the Monitoring Officer with the proposal for the adoption of the Local Government Association Councillors Model Code of Conduct in the new year and the Council's Petition Scheme will be reviewed also as part of the ongoing work of the Working Party.

16 BACKGROUND DOCUMENTS:-

Current Constitution - [The Council's Constitution](#)

APPENDICES:

Appendix 1 - Minutes from Audit and Governance Committee 9th November 2023.

Appendix 2 - Clean Copy with amendments shown highlighted only.