

Report Title:	Constitutional Amendments
Contains Confidential or Exempt Information?	No - Part I
Member reporting:	Councillor Targowska – Principal Member for Legal, HR & IT and Chair of the Constitution Sub Committee.
Meeting and Date:	Council 26 September 2017
Responsible Officer(s):	Mary Kilner, Head of Law and Governance and Monitoring Officer
Wards affected:	All

## REPORT SUMMARY

1. This report sets out a proposed change to the Constitution. The proposal has been brought forward to ensure that the Constitution is up to date, fit for purpose and supports and enables the Council to conduct its business in a transparent and compliant manner.
2. It is recommended that Council adopts the amendment set out in Paragraphs 2.5 and Appendix 1.

## 1 DETAILS OF RECOMMENDATION(S)

**RECOMMENDATION:** That Full Council notes the report and:

- i) Considers and approves the amendment to the Constitution set out in paragraph 2.5; see Appendix 1 for full details.

## 2 REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

- 2.1 The Constitution of the Council is the single point of reference containing the principal operating structures and procedures of the authority. It sets out how the Council operates, how decisions are made and the procedures to be followed to ensure that these are efficient, transparent and accountable to local people.
- 2.2 The current Borough's Constitution was largely agreed in 2011, when new model constitutions were introduced linked with the changes arising from the requirements under the Localism Act. A number of relatively small amendments from this wholesale revision have been implemented over time and a new version is published each time changes are made. The changes made since that date fall into three categories:
  - Changes agreed by Full Council.
  - Changes agreed by the Constitution Sub Committee when specifically delegated by Full Council to consider and make amendments.
  - Changes of a minor nature made by the Monitoring Officer in agreement with the Chair of the Constitution Sub Committee under the delegation set out in Article 14.2.
- 2.3 Version control has been included in the published document since September 2015 and changes made are shown in the table at the very end of the document. This

version control shows under which authority amendments have been made as well as a summary of the changes. Version Control numbers relate to the year of change and the edition of changes made that year: e.g. Version 17.3 refers to the third version published in 2017.

- 2.4 The change proposed to this Full Council is set out in paragraph 2.5 and Appendix 1.

## **Part 6 D2.2 Berkshire Pension Fund Advisory Panel – amendment to the Terms of Reference**

- 2.5 The Berkshire Pension Fund Panel has requested minor amendments to the membership details of the Advisory Panel in the terms of reference, to reflect changes in the composition of employing bodies in the Fund. Thames Valley Probation Trust is no longer an employing body in the Fund (having transferred to Greater Manchester Pension Fund) and is consequently not eligible for representation on the Pension Fund Advisory Panel. There are over 240 non-unitary authority employers in the Fund but the majority have fewer than 200 members (out of a total of over 63,000). However there are now 89 Academies as employers in the Fund, representing almost one eighth of the Fund's membership. A revised paragraph D2.2 is shown in Appendix 1.

**Table 1: Options**

<b>Option</b>	<b>Comments</b>
Approve the change requested by the Berkshire Pension Fund Panel <b>The recommended option</b>	The updated Constitution will promote best practice and confidence in decision making.
Modify the change proposed and approve a modified change	Members may wish to propose and consider minor amendments to the recommended change.
Do not approve the change and keep the current constitution	The Constitution will not promote best practice and will not reflect membership of the Fund

## **3 KEY IMPLICATIONS**

**Table 2: Key implications**

<b>Outcome</b>	<b>Unmet</b>	<b>Met</b>	<b>Exceeded</b>	<b>Significantly Exceeded</b>	<b>Date of delivery</b>
Consider the proposal and, where agreed, amend the Constitution by the date agreed.	Do not amend the Constitution by the date set out.	Amend by the date set out.	n/a	n/a	September 2017

## **4 FINANCIAL DETAILS / VALUE FOR MONEY**

- 4.1 There are no direct financial implications arising from the proposed constitutional changes.

## **5 LEGAL IMPLICATIONS**

- 5.1 The Constitution must be in compliance with the terms of the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007, Local Democracy, Economic Regeneration and Construction Act 2009, Localism Act 2011 and any other relevant statutory acts or guidance.

## **6 RISK MANAGEMENT**

- 6.1 The Council must have a current and accurate Constitution to provide a clear and unambiguous framework under which the Council can conduct business.

**Table 3: Impact of risk and mitigation**

<b>Risks</b>	<b>Uncontrolled Risk</b>	<b>Controls</b>	<b>Controlled Risk</b>
There is a risk of challenge if the Constitution is not legally updated.	Constitution is not updated.	Constitution is regularly reviewed and updated.	Revised Constitution available on website and is not open to challenge.

## **7 POTENTIAL IMPACTS**

- 7.1 If decisions are not taken in accordance with the adopted framework they are potentially open to challenge which could be damaging to the Council's reputation and/or delay operational decisions, which may in turn result in additional costs being incurred. Costs may arise from having to repeat activities, defending decisions or compensating for unlawful decisions.

## **8 CONSULTATION**

- 8.1 Relevant Lead Members, Principal Members and Deputy Lead Members, Panels, Forums and Sub Committees of the Council have been involved in identifying or requesting the updates proposed, and have asked that the changes be brought Council for consideration in accordance with the approval process outlined in paragraph 2.2 of this report.

## **9 TIMETABLE FOR IMPLEMENTATION**

**Table 4: Implementation timetable**

Date	Details
26 Sept 2017	Full Council confirms changes to the Constitution
29 Sept 2017	Updated and revised Constitution published

## 10 APPENDICES

10.1 Appendix 1 – Table of revisions proposed.

## 11 BACKGROUND DOCUMENTS

11.1 RBWM Constitution available on the RBWM Website:

[https://www3.rbwm.gov.uk/info/200110/about\\_the\\_council/910/council\\_constitution](https://www3.rbwm.gov.uk/info/200110/about_the_council/910/council_constitution).

## 12 CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Commented & returned
Cllr Targowska	Principal Member HR, Legal & IT	12/09/17	18/9/17
Alison Alexander	Managing Director	12/09/17	12/09/17
Mary Kilner	Head of Law and Governance	11/09/17	12/09/17

## REPORT HISTORY

<b>Decision type:</b> Non-key decision	<b>Urgency item?</b> No.
Report Author: Karen Shepherd, Democratic Services Manager - 01628 796529	

## Proposed revisions to the Constitution

Section of the Constitution	Proposed Revision	Rationale
Part 6 D2.2	<p><b>D2 <u>Berkshire Pension Fund Advisory Panel</u></b></p> <p><i>D2.2 Membership</i></p> <p>Membership - 16<u>7</u> comprising:</p> <ul style="list-style-type: none"> <li>• Five Members of the Pension Panel;</li> <li>• <del>and</del> One elected representative from each of Reading Borough Council, Slough Borough Council, West Berkshire Council, Bracknell Forest Borough Council and Wokingham Council;</li> <li>• Two trade union <u>employee</u> representatives;</li> <li>• <del>Three</del> <del>two</del> representatives from employer bodies with the Fund: <u>University of West London; an employer with a minimum of 200 members within the Fund; a representative from an Academy (to represent all academies within the Fund one being Thames Valley Probation and the other selected by the Pension Panel after consultation with the Advisory Panel;</u></li> <li>• One member drawn from the active membership, and one member drawn from the deferred/pensioner membership.</li> </ul> <p><u>The term of office for Members of the Advisory Panel should be set to run alongside the election cycle of the administering authority with Members being required to attend a minimum of 2 meetings per annum. Members of the Advisory Panel who fail to attend the minimum meeting requirement will be asked by the Berkshire Pension Fund Panel to step down and for a replacement to be appointed.</u></p>	Minor updates to membership to reflect composition of the Fund.