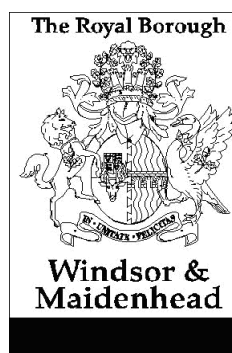


Report for:
ACTION



Contains Confidential or Exempt Information	No – Part 1
Title	CONSTITUTIONAL AMENDMENTS
Responsible Officer(s)	Russell O'Keefe – Strategic Director of Corporate and Community Services
Contact officer, job title and phone number	David Scott – Head of Governance, Partnerships, Performance and Policy, and Monitoring Officer 01628 796748
Member reporting	Councillor Targowska – Principal Member for Legal and HR and Chair of the Constitution Sub Committee.
For Consideration By	Council
Date to be Considered	27 September 2016
Implementation Date if not Called In	Not applicable
Affected Wards	All

Report Summary

1. This report sets out proposed amendments to the Constitution and recommends that Council considers and adopts the amendments as set out in paragraphs 2.4 - 2.9 and Appendix 1, for the reasons detailed in the report.
2. These proposals have been brought forward to reflect a number of requests received to ensure that the Constitution is up to date, fit for purpose, supports and enables the Council to conduct its business in a transparent and compliant manner. There are no key financial implications for the Council.

If recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
An up to date Constitution reflecting best practice will ensure democratic processes run efficiently and effectively, and ensure residents are informed of the correct processes to be followed by the Council.	From date of decision

1. DETAILS OF RECOMMENDATIONS

RECOMMENDATION: That Full Council:

- i. Notes the amendment to the Cabinet Regeneration Sub Committee Terms of Reference set out in paragraph 2.4.

- ii. **Considers and approves the amendments to the Constitution set out in paragraphs 2.5 to 2.9 and Appendix 1.**

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

2.1 The Constitution of the Council is the single point of reference which contains the principal operating structures and procedures of the authority. It sets out how the Council operates, how decisions are made and the procedures which are 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. The changes made since that date fall into one of three categories:

- Changes agreed by Full Council.
- Changes agreed by the Constitution Sub Committee when specifically delegated to consider and make amendments.
- Changes of a very minor nature by the Monitoring Officer in agreement with the Chair of the Constitution Sub Committee under the delegation set out in Article 14.2.

Version control since September 2015 and changes made are shown in the table on page 401, at the very end of the document.

2.3 Full Council approved changes in August 2016. A number of further amendments that require Full Council agreement have been identified and are included in this report.

Cabinet Regeneration Sub Committee Terms of Reference amendment

2.4 Cabinet has a small number of sub committees which have been set up and support the work of Cabinet. This includes the Cabinet Regeneration Sub Committee. (Part 3A A2.18) The current Terms of Reference include:

d) To agree recommendations to Cabinet and / or Council (as appropriate) for authorisation of land disposals and acquisitions required in connection with regeneration throughout the Borough.

2.4.1 The delegation in clause d) doesn't have any practical benefit as it still requires full Cabinet or Council to consider those disposals or acquisitions and it doesn't take into account the existing scheme of delegation for property that exists in the Property Procedure Rules. These Rules already determine who is the appropriate body that makes a decision on behalf of the Council. It is also considered a very narrow delegation as any regeneration scheme may involve arrangements other than 'land disposals and acquisitions' (for example: granting of leases or easements, entering into development agreements or use of monies necessary for development) is proposed that the clause be changed to say:

d) To make executive decisions (i) reserved to Cabinet in the Property Procedure Rules in Part 8D of this Constitution, (ii) to make any non-statutory executive decisions necessary to further regeneration and development and (iii) to make recommendations to Council when required under the Property Procedure Rules or Financial Rules (as appropriate) for a decision to further regeneration and development.

2.4.2 This will enable the Sub Committee to make decisions on property disposals and acquisitions but also the other property type decisions specified in the Property

Procedure Rules (Part 8 D of the Constitution). It is also enables the sub committee to take further decisions with the aim of furthering regeneration and development.

- 2.4.3 It is important to note that the sub committee can only take executive decisions for regeneration and it could not, for example, take decisions on statutory roles such as planning and development management. The sub committee's decision making is limited by the Council's general scheme of delegation in the Property Procedure Rules and it could not, for example, make a decision to spend monies where no budgetary provision has been made.
- 2.4.4 The aim of the changes are to allow Cabinet to operate through its Sub Committee to make decisions in a more timely and effective manner.
- 2.4.5 Part 3 A Section A2.4 b) of the Constitution permits the Leader to change the scheme of delegation relating to executive functions provided that the changes are reported to the Council at the next meeting.

Revisions to financial thresholds – Rob S and Richard B

- 2.5 Throughout the constitution there are a number of financial thresholds which determine the levels of financial related authorities for Council, Cabinet and Officers. At the present time these limits for revenue and capital differ, with capital thresholds for matters to be approved by Cabinet set at £500K whilst for revenue the threshold is set at £250K. It is proposed that this differential be removed and the £250K limits be increased to align with the £500K capital. This will support efficient working, and provide a consistent threshold that is shared for all transactions irrespective of revenue or capital basis. It will also help to enable prompt decisions to be taken. A delegation is therefore requested to enable the Monitoring Officer to make the necessary changes in the sections shown in Table 1.

Table 1

Section of the Constitution	Specific clause	Page No in V16.7
Article 12	Part 1 B, Article 12.3 b) 1),	31
Budget and Policy Framework Procedure Rules	Part 3 B 5. a) and b)	102
Finance Procedure Rules	Part 8 C – F1.12	303
Finance Procedure Rules	Part 8 C – F1.14	304
Finance procedure Rules	Part 8 C - F2.53 (e)	320

Pension Fund Panel Terms of Reference Delegation to the Investment Working Group

- 2.6 The Berkshire Pension Fund Panel and the Berkshire Pension Fund Advisory Panel considered in April 2016 a proposal to delegate a number of day to day fund management tasks and decisions to the Investment Working Group, set up a number of years ago to reduce the burden of detailed fund management tasks being undertaken in the quarterly panel meetings. The April 2016 meeting resolved to seek the necessary constitutional changes to confirm the requirements. Whilst the ambitions of the Pension Fund Panels are logical to help with the overall pension fund management work, the way to achieve this correctly in the

Constitution requires some more detailed work, to ensure the constitution is amended correctly. This may include establishing the Investment Working Group as a Sub Committee of the Berkshire Pension Fund Panel. It is proposed that Council approve a delegation the Constitution Sub Committee to approve the final detail of the necessary changes to the current arrangements on the Panels.

Admissions Forum – Kevin McDaniel

- 2.7 The way in which Admissions to schools are managed has changed significantly over recent years, in part due to Academies becoming their own Admissions authorities. There is no longer a statutory requirement for a Local Authority to have an Admissions Forum, and indeed the RBWM forum has not met since October 2012. It is proposed to delete the Admissions Forum and its Terms of Reference from the Constitution. (Part 8 F2 – Admissions Forum). When and where it will be advantageous voluntary meetings of the admissions authorities will be held to discuss and review relevant matters.

Contracts involving an Elected Member or their close family or related businesses

- 2.8 The Council, on occasions, contracts with businesses or individuals who have a close connection to an Elected Member of RBWM. This is a relatively infrequent event, but is entered into on the basis of the services offered, enable the Council to fulfil its statutory roles or other priorities, in a timely and cost effective manner. In order to ensure transparency and openness it is proposed that any contract for works or services, which involves an elected Member, or their close family or a related business, will be subject to the additional sign off by the Chair of Cabinet and the Lead Member for Finance, (or when necessary their appointed Deputies who must be a member of the Executive), in addition to compliance with the other Contract Rules, before a contract is awarded.

- 2.8.1 It is proposed that an additional clause be added to Part 8A 3. Conflicts of Interests and Standards. This additional clause will be:

3.5 Any proposed contract for provision of works or services between the Council and an Elected Member of the Council or their business, or a close member of their family must be approved by the Chair of Cabinet and the Lead Member for Finance, (or when necessary by their appointed Deputies who must be a member of the Executive) and be recorded by the relevant Officer, prior to any works or services being supplied or paid for.

Joint Arrangements Adoption Panel to reflect the transfer to Adopt Berkshire

- 2.9 A number of changes are set out in Appendix 1 section a) to reflect the changes arising from the shared adoption service arrangements that are now in place as a result of the Adopt Berkshire service, and the change from no longer having a East and West Berkshire split to the adoption panel arrangements.
- 2.9.1 Members are asked to note that the Berkshire Adoption Advisory Service (BASS) remains a service for all 6 Berkshire Authorities, not just the four who comprise Adopt Berkshire. BASS is hosted by RBWM and the agency advisor and administrator to the panel are employed by RBWM.

Appendix

- 2.10 Where the changes are more significant than a simple omission or addition as set out above, the proposed changes are set out as track changes in Appendix 1 to assist understanding the changes being proposed.

Option	Comments
1. Approve the changes to the Constitution.	The Constitution will promote best practice and confidence in decision making. RECOMMENDED OPTION
2. Modify the changes proposed and approve the modified changes 3.	Members may wish to propose minor amendments to the proposed changes.
4. Do not approve changes or make appointments	The Constitution will not promote best practice. The Council will not have complied with relevant legislation.

3. KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceed	Significantly Exceeded	Date they should be delivered by
Consider the proposals 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	October 2016

4. FINANCIAL DETAILS

Financial impact on the budget (mandatory)

- 4.1 There are no direct financial implications arising from these 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 and Local Democracy, Economic Regeneration and Construction Act 2009, Localism Act 2011 and any other relevant statutory acts or guidance. The changes proposed are made to ensure the document as a whole is as accurate and up to date as possible and reflects good practice to provide a clear operating framework.

6. VALUE FOR MONEY

- 6.1 An updated Constitution will ensure the Council is less likely to be challenged on its procedures and processes.

7. SUSTAINABILITY IMPACT APPRAISAL

- 7.1 There is no direct impact on sustainability objectives.

8. RISK MANAGEMENT

Risks	Uncontrolled Risk	Controls	Controlled Risk
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.

9. LINKS TO STRATEGIC OBJECTIVES.

- 9.1 The Constitution provides the framework for operation for the Council and everything that it does. It therefore contributes towards supporting and enabling all the strategic objectives to be delivered.

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

- 10.1 These amendments to the Constitution do not require a full EQIA. No negative impacts were identified.

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

- 11.1 None.

12. PROPERTY AND ASSETS

- 12.1 None.

13. ANY OTHER IMPLICATIONS

- 13.1 None.

14. CONSULTATION

- 14.1 N/A

15. TIMETABLE FOR IMPLEMENTATION

- 15.1 The amendments will be implemented when approved by Council and a revised version of the Constitution published to the RBWM Website.

16. APPENDICES

- 16.1 Appendix 1 – Summary of the proposed changes to the Constitution shown as Track Changes

17. BACKGROUND INFORMATION

- 17.1 The Monitoring Officer is responsible for ensuring the Council's Constitution is up to date and fit for purpose. This report seeks to support both these requirements.

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Cllr Targowska	Principal for HR and Legal and Chair of the Constitution Sub Committee	19 Sept 16	19 Sept 16	
Alison Alexander	Managing Director and Strategic Director of Adult, Children's and Health Services	16 Sept 16	17 Sept 16	Throughout
Russel O'Keefe	Strategic Director of Corporate and Community Services Director of Development & Regeneration	16 Sept 16		
Simon Fletcher	Strategic Director of Operations and Customer Services	16 Sept 16		
Mary Severin	SLS – Deputy Monitoring Officer	14 Sept 16	14 Sept 16	Para 2.8
Sean O'Connor	SLS	14 Sept 16	15 Sept 16	Para 2.4
Rob Stubbs	Deputy Director of Corporate and Community Services and Head of Finance	16 Sept 16		

Report History

Decision type:	Urgency item?
Non-key decision	No

Full name of report author	Job title	Full contact no:
David Scott	Head of Governance, Partnerships, Performance and Policy, and Monitoring Officer	01628 79 6748

Appendix 1

Change to Constitution – September 2016

The changes shall be made as stated in the table (strikethrough denotes deletion of existing and underline indicates additional/replacement wording):

2.4 Cabinet Regeneration Sub Committee Terms of Reference amendment

Part and Paragraph of Constitution	Amendment
Part 3A Para A2.18 Part Y	<p>A2.18 Cabinet Regeneration Sub Committee</p> <p><u>Purpose</u></p> <p>The Sub-Committee shall have delegated authority to undertake the following functions:-</p> <ul style="list-style-type: none"> a) General responsibility for the oversight of matters relating to the approved Area Action Plan for the regeneration of Maidenhead Town Centre. b) General responsibility for the oversight of matters relating to regeneration and development activity throughout the borough. c) Formulation of the Council's property, regeneration and development strategy both within Maidenhead Town Centre and throughout the borough, including dealings with existing land owners, the process for seeking and obtaining a development partner or partners and any Compulsory Purchase Order. d) To agree recommendations to Cabinet and/or Council (as appropriate) for authorisation of land disposals and acquisitions required in connection with regeneration throughout the borough. d) <u>To make executive decisions (i) reserved to Cabinet in the Property Procedure Rules in Part 8D of this Constitution, (ii) to make any non-statutory executive decisions necessary to further regeneration and development and (iii) to make recommendations to Council when required under the Property Procedure Rules or Financial Rules (as appropriate) for a decision to further regeneration and development.</u> e) Subject to the limitations contained in the general framework for delegations established by the Council and existing delegations to officers, approval of the terms of Development Agreements, other agreements with developers and those related to any CPO process, and other property agreements. f) Determination of all matters which may be necessary to

	secure implementation of the Council's property, regeneration and development strategy other than development control or building control functions.
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2. 9 Joint Arrangements Adoption Panel to reflect the transfer to Adopt Berkshire

Part and Paragraph of Constitution	Amendment
E1 <u>East Berkshire Adoption Panel</u> <u>Berkshire Adoption Panel</u>	<p><i>E1.1 Purpose</i></p> <p>To consider and make recommendations under the Adoption and Children Act 2002 and the associated Regulations 2005 on:</p> <ul style="list-style-type: none"> • applications from prospective adopters • the matching and placement of children in the care of <u>Reading, Wokingham, West Berkshire, Bracknell Forest, Slough and Windsor and Maidenhead Borough Councils</u> where it is considered that adoption is in a child's best interests • consideration of whether adoption is the best plan for a child <u>where the child is relinquished (excluding cases in proceedings which are read by the agency advisor, and are not presented to the adoption panel)</u> <p><i>E1.2 Membership:</i></p> <p>1 elected Member from each of: Windsor & Maidenhead, Bracknell Forest, <u>Slough, Reading, Wokingham and West Berkshire Councils.</u></p> <p>1 Medical Advisors nominated and provided by East <u>and West Berkshire Health Authorities.</u></p> <p>3 Social Workers - one Social Worker from those employed by each of the <u>3 6</u> Local Authorities.</p> <p>3 Independent Members - e.g. Adoptive Parents, Legal Advisers.</p> <p>The Independent Chair - a person to be appointed by agreement between the <u>3 6</u> Local Authorities having considerable experience in adoption work.</p> <p><i>E1.3 Quorum:</i></p> <p>At least six members to be present including the Chair or Vice Chair and at least one social worker and one independent member (the Chair or Vice-Chair can be considered to fulfil the requirement for an independent member if they are independent).</p>

	<p><i>E1.4 Frequency:</i></p> <p>Monthly except August when an additional panel would be held in either July or September. Twice monthly except August (when there is normally only one). Additional panels may be held if required. Panels may be cancelled if there are no cases to be heard.</p>
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