

Report Title:	Constitution Amendments
Contains Confidential or Exempt Information	No - Part I
Cabinet Member:	Councillor Bermange, Cabinet Member for Planning, Legal & Assest Management
Meeting and Date:	Council – 16 April 2024
Responsible Officer(s):	Elizabeth Griffiths, Executive Director of Resources & S151 Officer, Elaine Browne, Deputy Director of Law & Governance and Monitoring Officer
Wards affected:	All Wards

REPORT SUMMARY

The last full review of the Council's Constitution was undertaken in 2018. Since that time, various amendments have been made both by Full Council decision and also by the Monitoring Officer, in consultation with the Chair of the Constitution Working Group. These amendments are listed within Part 9D of the Constitution.

Suggestions have been put forward by the Monitoring Officer to the Constitution Working Group, with decisions then being made on which amendments would be best suited to be approved by Full Council & which can be delegated by the above parties.

The report therefore proposes amendments to a number of sections to improve clarity, consistency and transparency, avoid duplication, ensure efficient use of resources & to amend job titles that no longer exist. This will see continued good governance and sound decision making be practiced, which supports the Corporate Plan 2021-26 objective 'a Council trusted to deliver its promises'.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That Council notes the report and:

- i) Approves the amendments to the Constitution detailed in Appendix B and;**
- ii) Delegates authority to the Monitoring Officer to update as appropriate and publish the Council's Constitution.**
- iii) Notes the changes listed in Part 9D that have been made to date by the Monitoring Officer in consultation with the Chair of the Constitution Working Group to the Constitution, as outlined in Appendix C.**

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

Options

Table 1: Options arising from this report

Option	Comments
Approves the changes detailed in Appendix B This is the recommended option	The updated Constitution will promote best practice and confidence in decision making.
Modify the changes proposed in Appendix B and approve those modified changes.	Council may wish to propose and consider amendments to the recommended changes. However, the current wording has been agreed by both officers and the CWG, which promotes best practice.
Do not approve the changes detailed in Appendices B	The highlighted inconsistencies, errors and concerns will not be addressed and the Constitution will not promote best practice and will include inaccurate information.

- 2.1 **How the Council Operates** – Currently all Chairs and Vice-Chairs for the municipal year ahead are announced at Annual Council in May. However, if any changes are made during the municipal year to these, then a report would need to go to Full Council, to agree this. To ensure there is no delay to Council meetings and to allow for business to be transacted as efficiently as possible, the Constitution Working Group recommends that any decision on new Chairs and Vice-Chairs mid-year, be delegated to Group Leaders in consultation with the Monitoring Officer. This however will not apply to Overview & Scrutiny Panels, who appoint their own Chairs and Vice-Chairs, in accordance with Part 4 of the Constitution.
- 2.2 **Substitution** - Currently Councillors are responsible for finding a substitute for themselves only after 12:30pm on the day of the respective meeting that they are giving apologies for. The Constitution Working Group have recommended that this is extended so that the responsibility falls to each individual Councillor also before 12:30pm, removing the time completely. This encourages Councillors who are members of a committee/panel, to take ownership of their attendance. This however does not apply to the Council's quasi-judicial appeals, where Democratic Services shall remain responsible for arranging substitutes for both the Appeals Panels and all Licensing & Public Space Protection Order Sub-Committees.
- 2.3 **General (Public Questions at Council)** – As it stands, any member of the public may ask a question at Full Council meetings in accordance with Part 2 of the Council's Constitution. There are currently no restrictions in place that limits who specifically can submit questions, unlike that of the Council's Petitions Protocol for example. The Constitution Working Group has recommended that persons who can submit questions to Full Council should be limited to living, working, studying or owning property within the borough. This ensures that the borough's residents are at the centre of the Council's decision-making process.
- 2.4 **Councillor Wishing to Speak & Standing to speak**– The Constitution Working Group recommends that the option to remain seated is available to Councillors when speaking at Council. It is recommended that this line is added in to Part 2 of the Council's Constitution, to give Councillors the choice

to both stand or remain seated, which is preferable for the Audio Visual equipment that is utilised within the Council Chamber. The Mayor would still possess the power to ask for either or, if they deemed this necessary though.

- 2.5 **Duration of Meetings** – Currently the Constitution states that where any meeting that commences prior to 7:30pm has not concluded discussing all items of business on the agenda by 9:30pm, a vote must be taken on whether to continue or not. The Constitution Working Group recommends that this is changed so that where any meeting that passes a duration of 3 hours, a vote is then taken without debate on whether to continue. This will account for all meetings, regardless of their start time and ensure that business is conducted in the most efficient fashion. This extension may need to be revisited depending on the speed with which the remaining business is concluded and should not be deemed limitless.
- 2.6 **Licensing & Public Space Protection Order Sub Committee Terms of Reference** – Currently there are 11 members of the Licensing Panel. These 11 form a pool of Councillors who are eligible to sit on Licensing & Public Space Protection Order (PSPO) Sub-Committees as and when required. An identified concern by the Constitution Working Group was that this pool of 11 was not large enough when several sub-committees were needing to be arranged within close proximity of each other. By increasing this membership to include that of substitutes of the Licensing Panel, it would allow there to be a greater pool of Councillors to take part and increase the shared experience of sitting on these to more Councillors. However, only Councillors who have completed the mandatory training will be eligible .
- 2.7 **Development proposals submitted by councillors, their close relatives and officers and council development** – In 2020, a section was removed from Part 6 of the Council's Constitution which outlined that all of the Council's own development and private applications in respect of borough owned land, would be considered by the relevant committee and not be delegated to officers. However, this was not removed from Part 7B and therefore a discrepancy exists between both parts. To avoid the inefficient use of resources, the Constitution Working Group recommends that the applications in question should only be decided by the relevant committee, if three or more objections are received.
- 2.8 **Public Speaking at Development Management Committee Meetings** – Currently hardcopy materials are discouraged from being shared by members of the public on the night of Development Management Committees. The reason being is that it is a requirement for Councillors to attend the meeting as a voting member, having read in detail all of the relevant materials and to have asked any technical questions they have to officers, prior to the meeting. Officers and Councillors are unable to read and digest large documents during the meeting as their focus should be on the debate. The Constitution Working Group recommends that this line should be added into the Constitution and recommend that all materials including presentations are sent to members of the committee prior to the meeting, using their contact details which are available online.

3. KEY IMPLICATIONS

Table 2: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Updated Constitution	Amendments not approved	Amendments approved and updated Constitution published	n/a	n/a	17 April 2024

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 There are no direct financial implications by virtue of the recommendations in the report. However the proposals promote the efficient use of resources by avoiding duplication and improving agenda and meeting management.

5. LEGAL IMPLICATIONS

- 5.1 Section 9P of the Local Government Act 2000 requires a Local Authority to prepare a Constitution and to keep the Constitution up to date.
- 5.2 The Constitution Working Group will continue to be consulted to consider the implications on the wording of the Constitution of legislation as it is updated.

6. RISK MANAGEMENT

Table 3: Impact of risk and mitigation

Threat or risk	Impact with no mitigations in place or if all mitigations fail	Likelihood of risk occurring with no mitigations in place.	Mitigations currently in place	Mitigations proposed	Impact of risk once all mitigations in place and working	Likelihood of risk occurring with all mitigations in place.
There is a risk that good governance will be compromised due to errors or inconsistencies within the Constitution, which could result in	Moderate - 2	Unlikely – more probable to not happen than to happen	The Council have a Codified Constitution in place, which is applied throughout the Council's decision making processes and functions.	To update the Constitution as and when agreed recommendations are made. Regular convening of the Constitution Working Group, to discuss changes and notify the group of minor amendments.	Minor 1	Very unlikely – only a small chance this will occur

challengeable decisions						
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7. POTENTIAL IMPACTS

- 7.1 Equalities - An Equality Impact Assessment Screening has been completed and is available as Appendix A. A full EQIA is not considered to be required.
- 7.2 Climate change/sustainability - None
- 7.3 Data Protection/GDPR - None

8. CONSULTATION

- The changes proposed to the Constitution contained within Appendix B, were presented to the Constitution Working Group, prior to this report coming before Council as outlined within paragraph 14.3, Part 1A.

9. TIMETABLE FOR IMPLEMENTATION

- 9.1 Implementation date if not called in: Immediately. The full implementation stages are set out in table 4.

Table 4: Implementation timetable

Date	Details
27/03/2024	Constitution Working Group
16/04/2024	Council
17/04/2024	Constitution Amended

10. APPENDICES

- 10.1 This report is supported by 2 appendices:
- Appendix A – Equality Impact Assessment
 - Appendix B – Recommended amendments to the Constitution with tracked changes, put forward by the Consittuion Woking Group
 - Appendix C – Draft Part 9D of the Council’s Constitution following Council on 16.04.24.

11. BACKGROUND DOCUMENTS

- 11.1 This report is supported by 1 background documents:
- [The Council’s Constitution](#)

12. CONSULTATION

Name of consultee	Post held	Date sent	Date returned
<i>Mandatory: Statutory Officer (or deputy)</i>			
Elizabeth Griffiths	Executive Director of Resources & S151 Officer	02.04.24	
Elaine Browne	Deputy Director of Law & Governance & Monitoring Officer	30.03.24	02.04.24
<i>Deputies:</i>			
Julian McGowan	Senior Finance Business Partner & Deputy S151 Officer	02.04.24	04.04.24
Jane Cryer	Principal Lawyer & Deputy Monitoring Officer		
Helena Stevenson	Principal Lawyer & Deputy Monitoring Officer		
<i>Mandatory: Procurement Manager (or deputy) - if report requests approval to go to tender or award a contract</i>			
Lyn Hitchinson	Procurement Manager		
<i>Mandatory: Data Protection Officer (or deputy) - if decision will result in processing of personal data; to advise on DPIA</i>			
Samantha Wootton	Data Protection Officer		
<i>Mandatory: Equalities Officer – to advise on EQiA, or agree an EQiA is not required</i>			
Ellen McManus-Fry	Equalities & Engagement Officer	02.04.24	04.04.24
<i>Mandatory: Assistant Director HR – to advise if report has potential staffing or workforce implications</i>			
Nikki Craig	Assistant Director of HR, Corporate Projects and IT		
<i>Other consultees:</i>			
<i>Directors (where relevant)</i>			
Stephen Evans	Chief Executive	02.04.24	
Andrew Durrant	Executive Director of Place		
Kevin McDaniel	Executive Director of Adult Social Care & Health		
Lin Ferguson	Executive Director of Children's Services & Education		

Confirmation relevant Cabinet Member(s) consulted	Cabinet Member for Planning, Legal & Assest Management	Yes
	Leader of the Council & Chair of the CWG	Yes

REPORT HISTORY

Decision type:	Urgency item?	To follow item?
Council decision	No	No

Report Author: Oran Norris-Browne, Democratic Services Team Leader,
07717 801478

Appendix A - Equality Impact Assessment

For support in completing this EQIA, please consult the EQIA Guidance Document or contact equality@rbwm.gov.uk

www.rbwm.gov.uk



1. Background Information

Title of policy/strategy/plan:	Constitution Amendments
Service area:	<u>Law & Governance</u>
Directorate:	<u>Resources</u>

Provide a brief explanation of the proposal:

- What are its intended outcomes?
- Who will deliver it?
- Is it a new proposal or a change to an existing one?

The proposal is to make amendments to the Council's Constitution, which have been put forward by the Constitution Working Group. Implementation of these amendments will be delegated to the Monitoring Officer to publish.

2. Relevance Check

Is this proposal likely to directly impact people, communities or RBWM employees?

- If No, please explain why not, including how you've considered equality issues.
- Will this proposal need a EQIA at a later stage? (for example, for a forthcoming action plan)

Yes - Proposed changes are resource saving, with the majority of the changes having no adverse effect on RBWM employees or communities, barring 2.

If 'No', proceed to 'Sign off'. If unsure, please contact equality@rbwm.gov.uk

3. Evidence Gathering and Stakeholder Engagement

Who will be affected by this proposal?

For example, users of a particular service, residents of a geographical area, staff

Councillors and other attendees at Council meetings.

Among those affected by the proposal, are protected characteristics (age, sex, disability, race, religion, sexual orientation, gender reassignment, pregnancy/maternity, marriage/civil partnership) **disproportionately represented?**

For example, compared to the general population do a higher proportion have disabilities?

No

What engagement/consultation has been undertaken or planned?

- How has/will equality considerations be taken into account?
- Where known, what were the outcomes of this engagement?

What sources of data and evidence have been used in this assessment?

Please consult the Equalities Evidence Grid for relevant data. Examples of other possible sources of information are in the Guidance document.

4. Equality Analysis

Please detail, **using supporting evidence**:

- How the protected characteristics below might influence the needs and experiences of individuals, in relation to this proposal.
- How these characteristics might affect the impact of this proposal.

Tick positive/negative impact as appropriate. If there is no impact, or a neutral impact, state 'Not Applicable'

More information on each protected characteristic is provided in the Guidance document.

	Details and supporting evidence	Potential positive impact	Potential negative impact
Age	N/A		
Disability	The proposed changes to allow councillors to remain seated when asking a question will make meetings more inclusive for disabled attendees. The tighter guidelines around members of the public submitting documentation/presentations in advance of a meeting will also make these materials more accessible for any councillors with accessibility needs or relevant neurodiversities.	X	
Sex	N/A		
Race, ethnicity and religion	N/A		
Sexual orientation and gender reassignment	N/A		
Pregnancy and maternity	N/A		

Marriage and civil partnership	N/A		
Armed forces community	N/A		
Socio-economic considerations e.g. low income, poverty	N/A		
Children in care/Care leavers	N/A		

5. Impact Assessment and Monitoring

If you have not identified any disproportionate impacts and the questions below are not applicable, leave them blank and proceed to Sign Off.

What measures have been taken to ensure that groups with protected characteristics are able to benefit from this change, or are not disadvantaged by it?

For example, adjustments needed to accommodate the needs of a particular group

N/A

Where a potential negative impact cannot be avoided, what measures have been put in place to mitigate or minimise this?

- For planned future actions, provide the name of the responsible individual and the target date for implementation.

N/A

How will the equality impacts identified here be monitored and reviewed in the future?

See guidance document for examples of appropriate stages to review an EQIA.

6. Sign Off

Completed by: Oran Norris-Browne

Date: 30/03/2024

Approved by: Kirsty Hunt	Date: 04/04/2024
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If this version of the EQIA has been reviewed and/or updated:

Reviewed by: Ellen McManus-Fry	Date: 04/04/2024
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