

DECISION-MAKER:	GOVERNANCE COMMITTEE COUNCIL
SUBJECT:	ANNUAL REVIEW OF THE CONSTITUTION
DATE OF DECISION:	24 TH APRIL 2023 (GOVERNANCE COMMITTEE) 18 TH MAY 2023 (COUNCIL)
REPORT OF:	DIRECTOR OF LEGAL, GOVERNANCE & HR AND MONITORING OFFICER

<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY	
N/A	
BRIEF SUMMARY	
This report sets out the annual review of the Constitution. This will be considered and initially discussed by Governance Committee on 24 th April 2023. The recommendations to both the Governance Committee and Council are included below.	
As ever, the Constitution is a set of documents that changes regularly and, therefore, further revisions may be proposed prior to or at Council.	
RECOMMENDATIONS:	
	<u>Governance Committee</u>
(i)	To consider and recommend the changes to the Constitution to Council for adoption.
	<u>Council</u>
(ii)	To agree the changes to the Constitution and associated arrangements as set out in this report;
(iii)	To authorise the Director of Legal, Governance & HR to finalise the arrangements and wording to any revisions approved by Council and make any further consequential or minor changes arising from the decision; and
(iv)	Approve the City Council's Constitution, as amended, including the Officer Scheme of Delegation, for the municipal year 2023-24.

REASONS FOR REPORT RECOMMENDATIONS	
1.	It is appropriate as a core tenant of good governance for the Council to keep its Constitution under regular review and to amend it, both to reflect experience and changing circumstances.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
2.	The Council has previously resolved to review its Constitution annually. Therefore, it is appropriate that this report is considered by Members. There are a range of recommendations set out within the report, none of which are substantial changes. Members have a range of options about various changes, not least of which is to amend or reject some or all of them.
DETAIL (Including consultation carried out)	
	<u>Officer Scheme of Delegation</u>
3.	Following the Senior Management restructure which was completed in late 2022 the scheme has been updated to ensure all current delegations are allocated to the correct new Executive Director, Director or Head of Service as appropriate. The Director of Governance, Legal and HR has an existing delegation to keep the Scheme (and all parts of the Constitution) updated and to reallocate delegated functions.
4.	The only additions to the officer Scheme of Delegation are in relation to Supported Housing. The proposed delegations are not new but are simply included for completeness to clearly show the actions and decisions that officers currently undertake as “business as usual” matters.
	<u>Council Procedure Rules – Executive Business Report</u>
5.	It has been proposed by the Leader of the Council that the written Executive Business Report (EBR) for noting currently tabled at every ordinary meeting of Council is converted to a verbal update comprising the 15 minute period for Cabinet Members to do so and the 15 minute period for members to ask questions on matters raised.
6.	There is no obligation to present a written, or any, EBR update. Historically it was placed on the agenda some years ago prior to the current live streaming of council meetings and comprehensive use of all forms of “instant” social media, Council communications including the Council’s Twitter account, online mailings etc. By the time the EBR is tabled and considered by Council most matters have already been in the public domain for some weeks or implemented having been previously decided at Cabinet and/or been publicised widely. It is therefore considered that whilst originally there was merit in tabling the report that has now passed to a great extent. Additionally, there is also, of course, an officer resource needed to complete what is often a very comprehensive noting report and it is considered better use could be made of this resource.
7.	One important aspect which holds the Administration to account is the ability for opposition members to ask questions, without notice, on matters contained in the EBR. This will be retained but it is noted that if there is no written report on the agenda if a certain matter is not mentioned verbally by the Cabinet Member the opportunity to ask a question is lost. However, numerous other avenues to hold the Executive/Administration to account are available including tabled Council Questions as below, the well-honed scrutiny function

	and, of course, the ordinary use of emails etc outside of formal meetings. The exact wording in the Constitution will be revised following the Council resolution.
	<u>Council Procedure Rules - Questions from Members</u>
8.	As members will be aware this is a formal opportunity for members to ask written Questions to the Leader of the Council, Cabinet Members, the Lord Mayor and Committee Chairs. The system is comprehensively used but despite revisions to the process and criteria over the years members and officers have never found a system that suits everyone given the divergence of views.
9.	It is a core tenet of good governance in a democratic organisation that there are adequate opportunities to hold the Administration to account on matters of major policy and significant budget matters and/or projects. Council Questions are one of those opportunities, others include the scrutiny function and ability for Executive decisions to be “called in”.
10.	The current Council Questions “escalation” criteria and process was adopted by members in 2019 but from experience since that time it has proven rather tortuous and causes tension when Questions are adjudicated upon by the Lord Mayor and Director of Governance, Legal and HR and subsequently ruled out. Judgements are made, most of which are subjective, and members and officers have on numerous occasions interpreted matters differently. The general consensus is that despite revisions to the process it still does not meet everyone’s needs and requires further revision.
11.	For officers there is a significant resource allocated to this aspect of Council business in the week leading up to Council. Whatever revisions are made or criteria applied going forward there is a place for Questions at Council. To assist, officers are developing a SharePoint site which will mean simpler, easier and quicker access to the process by everyone involved. This will lead to a smoother process and involve less officer time. This should be in place for next ordinary Council meeting in July.
12.	With regard to the scope and criteria of Council Questions every authority has their own way of doing things. Most of our peer authorities do not have as many formal Questions tabled regularly and therefore have no need for complicated processes. There is no right or wrong way, it is for each Council to decide what suits their business needs best.
13.	Accordingly, Group Leaders have discussed refinements and proposed a revised and simpler process. Firstly, Questions will be limited in number and the time limited for answering removed; 10 is proposed together with supplementaries as now. The Questions will not be “first come, first served” they will be divided pro rata depending on the political proportionality of the 51 member seats. Questions will be limited to major project or policy items on the following basis and to simplify matters there will be no obligation to ask the Question to the Cabinet Member first before escalating to Council. The Lord Mayor after taking advice from the Director of Legal, Governance & HR will remain the final arbiter:
	a. A Member of the Council may ask: i. the Lord Mayor; ii. Cabinet Members; or iii. the Chair of any committee or sub-committee a question on any

	<ul style="list-style-type: none"> ○ major policy, project or strategic matter related to their role, responsibilities and/or office, ○ which is not similar to any question asked in the preceding Council meeting <p>b. Questions on matters relating to the day-to-day provision, management and administration of services will not be permitted. This includes any requests for data or any other operational information where Members should seek this information from officers.</p> <p>The Lord Mayor will be the final arbiter on whether any Question is to be tabled after consultation with the Director of Governance, Legal & HR. No Question will be struck out without consultation with the tableer and/or Group Leader.</p>
14.	<p>In addition, there will be up to 2 supplementary Questions permitted per Question and as now they must strictly relate to the primary tabled Question. In total 30 Questions and supplementaries could therefore be asked at any Council meeting; that is a significant number compared to peer authorities and considered adequate to deal with major matters arising. Importantly, to ensure comprehensive time for responses there will be no time limit on Member Questions as the focus will be on the number tabled. On occasions the current 60 minutes allocated for answers has been insufficient, with some tabled Questions remaining unanswered; under these proposals this will no longer be an issue. The exact wording in the Constitution will be revised following the Council resolution.</p>
15.	<p>For completeness, although not referred to in the CPRs operationally the Question response process is proposed to be as follows:-</p> <ul style="list-style-type: none"> • To ensure a more robust audit trail, the use of email to send and approve member questions between officers and members will no longer be in operation. All approvals and amendments to member questions will be conducted via a central member questions Sharepoint site to ensure the most up to date information is captured and approved. All cabinet members and relevant officers will have access to this area. • When member questions are first submitted, they will automatically populate Sharepoint and capture information ready for review by the Lord Mayor and Director of Legal, Governance and HR. • Cabinet members will then be notified of the questions submitted and will need to indicate (via Sharepoint) whether they require a formal written draft response from officers. This will then create an automated prompt to officers to draft a response. • Where a draft response is requested this will be uploaded to the member questions Sharepoint site by 5pm on the Friday preceding the meeting. Cabinet members will have access to this area and will be prompted to go into the document and approve any responses. • Cabinet Members are to submit any amendments or final responses via Sharepoint no later than 12 noon on the Tuesday preceding the Council Meeting. • Written responses from officers should be no longer than 200 words and uploaded to the member questions Sharepoint site ready for review by members.

	If the Cabinet Member requires a further briefing to prepare for supplementary or verbal responses they will liaise directly with the Executive Director/other as appropriate.
	<u>Financial Procedure Rules (FPRs)</u>
16.	The Chief Financial Officer will be reviewing the FPRs later in the year once the outcome of the current CIPFA peer review has been completed and officers have initially considered the recommendations/actions required.
	<u>Contract Procedure Rules</u>
17.	<p>The key changes in the Contract Procedure Rules are proposed as follows:</p> <ul style="list-style-type: none"> • Clarification that a Chief Officer (or officer where a sub-delegation has been given) may sign a contract of value up to CPR Threshold. • Clarification that a Chief Officer (or officer with a sub-delegation) may authorise a variation where the variation is provided for within the terms and conditions of the contract. • Additional requirement for Chief Financial Officer to be consulted on a decision to require a parent company guarantee or other security. This is to reflect the new Economic and Financial standing process. • Introduction of requirement for all variations above CPR Threshold which are not provided for within the terms and conditions of the contract to be authorised by the Director of Commissioning – Integrated Health and Care or the Head of Supplier Management. This is to ensure there is sufficient oversight and governance around these variations. • Added clarification that that for sealing purposes, anything above the usual CPR Threshold of £213,477 must go to Legal Services for sealing / signing when it is in respect of CPR 2015 Schedule 3 services. This is to ensure Legal Services has oversight and responsibility for signing and sealing all contracts above an appropriate value.
18.	In addition to the above proposed amendments, it should be noted that the Procurement Bill is due to be passed into legislation in early 2024 and with a six-month advance preparation period. The Procurement Bill is likely to require a change to elements of the CPRs. It is not known at present how significant the changes will be, so it is proposed that once the impact is confirmed, a decision whether to make further changes to the CPRs will be taken.
	<u>Civic and Ceremonial Protocol</u>
19.	On occasions the Mayor has held informal gatherings in the Parlour and awarded a “Mayor’s Award” for citizens who have made valuable contributions to the life of the city but who do not meet the criteria for becoming an Alderman, given Freedom of the City or a City of Southampton award. It is recognised that a Lord Mayor may wish to hold an informal awards celebration within their Lord Mayoral year as part of their programme of events. If such an event is required, it will be funded from the current Lord Mayoralty budget following consultation with the Lord Mayor’s Office.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
20.	None.

<u>Property/Other</u>	
21.	None.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
22.	An up-to-date Constitution is a requirement of the Local Government Act 2000.
<u>Other Legal Implications:</u>	
23.	None.
RISK MANAGEMENT IMPLICATIONS	
24.	None.
POLICY FRAMEWORK IMPLICATIONS	
25.	None.

KEY DECISION?	Yes/No
WARDS/COMMUNITIES AFFECTED:	None
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Tracked changed Constitution (available online)

Documents In Members' Rooms

1.	None.
2.	

Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	Yes/No
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Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	Yes/No
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Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	
2.	