

Report To:	COUNCIL	Date:	23 APRIL 2020
Heading:	ANNUAL CONSTITUTION REVIEW 2020		
Portfolio Holder:	NOT APPLICABLE		
Ward/s:	NOT APPLICABLE		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose of Report

To report proposed changes to the Constitution for consideration. It also includes recent temporary changes introduced through the Coronavirus Act 2020 and the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

Recommendation(s)

To consider and approve the proposed changes to the Council's Constitution.

To delegate authority to the Monitoring Officer and Chief Executive to amend the Constitution to reflect any further changes that are required as a direct result of Government Legislation /Guidance resulting from the coronavirus (COVID-19) situation.

Reasons for Recommendation(s)

To ensure that the Council's Constitution remains up to date and fit for purpose it is reviewed annually.

This report is also seeking Council approval for the necessary constitutional changes to ensure the Council's decision-making processes continue to operate and are transparent and the Constitution is kept up-to-date in line with recent emergency legislation introduced in response to the Coronavirus pandemic. These changes in procedure will cease in May 2021 in accordance with the current regulations, or at some other date pursuant to further Government legislation, when normal meetings can resume.

Alternative Options Considered

(with reasons why not adopted)

Do not update the Constitution. However, this would not be best practice and would reduce the value of the document, both to the Council and the wider Community as an authoritative guide to how the Council works.

Detailed Information

Constitution Review 2020

It is good practice to review the Constitution regularly and it is the Council's practice to carry out a review annually.

The proposed changes to the Constitution are outlined below:

Part of the Constitution	Proposed Amendments
Part 1 – Summary	<p>How Council Operates – 1.2</p> <p>Inserted “A meeting of Council can take place in more than one place, including electronic, digital or virtual locations such as internet locations, social media, web addresses or conference call telephone numbers”.</p> <p>How Decisions are made – 1.2</p> <p>Inserted “In circumstances where an emergency or other unplanned incident threatens to take critical systems or services off line or out of action, the Chief Executive can exercise all necessary powers to ensure the continuity of operations and core council business “</p>
Part 2 – Articles	<p>Rights to Information – 3.02, 2-5</p> <p>Inserted “or have access to” relating to public attendance at meetings of the Council.</p>
Part 3 – Functions and Delegations	<p>Functions Delegated to Officers – Chief Executive 3-32</p> <p>Added “In circumstances where an emergency or other unplanned incident threatens to take critical systems or services off line or out of action, the Chief Executive can exercise all necessary powers to ensure the continuity of operations and core council business.</p> <p>Licensing No changes</p> <p>Planning No changes</p>

Part 4 – Rules of Procedure

Council Procedure Rules

Timing and Business

Inserted “in the circumstance of an emergency or an unplanned incident the annual meeting can be postponed until the following year or until such time as is reasonable to resume normal Council activity”.

Time and Place of Meetings

Inserted “Place of meeting includes reference to more than one place including electronic, digital or virtual locations such as internet locations, social media, web addresses or conference call telephone numbers”.

Right of a Member to Attend A Meeting

Inserted “Attendance at any meeting also includes reference to more than one place including electronic, digital or virtual locations such as internet locations, social media, web addresses or conference call telephone numbers”.

Rights to Attend a Meeting

Added “Access includes making the meeting accessible through digital means including electronic, digital or virtual locations such as internet locations, social media, web addresses or conference call telephone numbers”.

Executive Meetings – When and Where

Added ““place” including electronic, digital or virtual locations such as internet locations, social media, web addresses or conference call telephone numbers”.

Petition Scheme – Part 12 Updated

- If a petition submitted to the Council contains between 750 and 1,499 signatures, it will be referred to the Overview and Scrutiny Committee.
- If a petition submitted to the Council contains over 1,500 signatures, it will be debated by Full Council.
- If a petition submitted to the Council contains between 10 and 199 signatures, it will be responded to in accordance with Ashfield District Council’s Compliments and Complaints procedure.
- If a petition submitted to the Council contains between 200 and 749 signatures, it will be discussed at a meeting of the Council’s Corporate Leadership Team. The discussion would lead to a formal written response from the Corporate Leadership Team to the petition organiser.

Access to Information Procedure Rules

No changes.

Budget and Policy Framework Procedure Rules

No changes

Executive Procedure Rules

- **Part 4-48, 1.6. Added** “place” including electronic, digital or virtual locations such as internet locations, social media, web addresses or conference call telephone numbers”.

Overview and Scrutiny Procedure Rules

- Part 4-54. Scrutiny consideration of Petitions, updated in accordance with changes to the Petition Scheme

Financial Regulations

- Part 4-71, Financial Planning Introduction. Added “The Treasury Management Strategy”.
- Part 4 – 74, Use of Resources. Added “The Chief Finance Officer will determine the creation of new reserves”.
- Part 4-79, Petty Cash and Float Accounts. Deleted this section as this is no longer relevant.
- Part 4-83, Orders for Work, Goods and Services - Added “approved Purchase Card transactions”.
- General update of Job titles

Code of Procedures Relating to the Disposal of Land and Buildings –

No changes

Contract Procedures Rules

- Part 4-101 and 4-102 (quick reference guide to the Contract Procedure Rules), for all contract values over and including “£50,000 to below EU thresholds” (and “frameworks”) under the column “authority” – Change to EDR instead of ODR.
- Part 4-109, para 3.14 – amended to read “All call off contracts under framework agreements of £50,000 or more must be executed as deeds, by affixing the Council’s Common Seal.”
- Part 4-109, para 3.15 – amended to read “A call off contracts under a Framework Agreement must not be longer than 4 years unless specifically agreed.”
- Part 4-123, para 9.4.1 – amended to read “All call off contracts under Framework Agreements, bonds and guarantees, and Contracts of £50,000 or more must be executed as deeds.”
- Part 4 -127, para 10.11 – added 10.11 “If a Contract does not specifically include an option to extend its term and a Chief Officer decides that there are exceptional circumstances, namely

	<p>circumstances which could not have been reasonably foreseen, then the term of the Contract may be extended but only where the extension does not alter the overall nature of the Contract and provided that any increase in price does not exceed 50% of the value of the original Contract. If the value of the extension is over £50,000 per annum the decision to award the extension Contract must be reported to Cabinet”.</p> <ul style="list-style-type: none"> • Part 4-131, definition of framework agreement – inserted “call off” between “one or more specific” and “Contracts with an authority.” <p>Employment Procedure Rules No changes.</p>
Part 5 – Members’ Code of Conduct	No changes
Part 6 – Member/Officer Protocol	No changes.
Part 7 – Allowances	The Members Allowance Scheme will be updated following the Report of the Independent Remuneration Panel, which is due to be considered at the Council AGM on the 23 April 2020.
Part 8 – Management Structure	No changes.
Part 9 – Employees Code	No changes
Part 10 – Planning Code	No changes

Implications

Corporate Plan:

To ensure we deliver high-quality public services we have adopted a set of corporate values which underpin the successful delivery of our priorities. How we work is as important as what we do. The Council’s values are: People Focussed; Honest; Proud; Ambitious.

Legal:

In accordance with Article 13 of the Constitution, the Monitoring Officer is responsible for keeping the Constitution under review. The Monitoring Officer is delegated the authority to make minor alterations to the Constitution or make amendments to reflect in year changes. Substantive changes to the Constitution must be approved by the Council.

Recent temporary changes to meetings and accessibility of information have been introduced through the Coronavirus Act 2020 and the Local Authorities and Police and Crime Panels

(Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

Finance:

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
Not updating the Constitution on a regular basis would increase the risk of failing to reflect current legislation and practices which would negatively impact decision-making.	Ensuring the Council’s Constitution remains up to date and fit for purpose it is reviewed annually.

Human Resources:

There are no significant Human Resource implications identified in this report.

Equalities:

There are no specific equalities issues highlighted in the report or apparent at this stage in relation to proposed changes.

Environmental/Sustainability

There are no significant Environmental/Sustainability implications identified in this report.

Other Implications:

None

Reason(s) for Urgency

Not applicable

Reason(s) for Exemption

Not applicable

Background Papers

None

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