

| | | | |
|----------------------------|--|--------------|----------------------|
| Report To: | STANDARDS AND PERSONNEL APPEALS COMMITTEE | Date: | 24 MARCH 2021 |
| Heading: | ANNUAL CONSTITUTION REVIEW | | |
| 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 to the Standards and Personnel Appeals Committee for their consideration and comment prior to being reported to the AGM of the Council in May 2021.

Recommendation(s)

To consider the proposed changes to the Council's Constitution and make comments and recommendations to Council.

Reasons for Recommendation(s)

To ensure that the Council's Constitution remains up to date and fit for purpose it is reviewed annually. The Standards and Personnel Appeals Committee's remit includes making recommendations to Council regarding amendments to the Constitution relating to matters of an ethical governance nature.

Alternative Options Considered

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 2021

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>Minor textual and formatting amendments to improve clarity and readability.</p> <p>Removed obsolete external links to the Forward Plan and background papers.</p> <p>Removed mention of arranged Councillor surgeries as these no longer take place.</p> |
| Part 2 – Articles | <p>Removed obsolete external link to the Council's Petition Scheme.</p> <p>Added links to the Council's Complaint Scheme, Local Government Ombudsman and Standards Complaints.</p> <p>Added reference to the COVID-19 Response and Recovery Scrutiny Panel where required.</p> |
| Part 3 – Functions and Delegations | <p>Responsibility for Local Choice Functions – Changed Executive membership number to 10.</p> <p>Responsibility for Council Functions – Changes to Officer titles.</p> <p>Licensing – Added power to issue Temporary Pavement Licences.</p> <p>Scheme of Delegation – Updated Portfolio Holder responsibilities.</p> <p>Committee Terms of Reference – Added in the COVID-19 Response and Recovery Panel.</p> |
| Part 4 – Rules of Procedure | <p>Minor textual and formatting amendments throughout to improve clarity and readability.</p> <p>Council Procedure Rules – Council Procedure Rules will be reviewed and updated as necessary up until the Annual Council Meeting to ensure the Council is following best practice. Added reference to virtual meetings under Council Procedure rule 21 (Record of Attendance).</p> <p>Access to Information Procedure Rules – No changes.</p> <p>Budget and Policy Framework – No changes.</p> |

| | |
|---|--|
| | <p>Executive Procedure Rules – Removed obsolete external links.</p> <p>Overview and Scrutiny Procedure Rules – Removed obsolete external links.</p> <p>Financial Regulations – Updated throughout to reflect exit from the European Union.</p> <p>B.1 – Financial Planning - Added reference to the Council’s Treasury Management Strategy.</p> <p>D.21 – Payment of Accounts Due - Updated title from Inland Revenue to Her Majesty’s Revenue & Customs (HMRC).</p> <p>D.31 – Irrecoverables - Addition to the criteria for writing off individual irrecoverable debts not exceeding £5,000.</p> <p>Code and Procedures Relating to the Disposal of Land and Buildings – No changes.</p> <p>Contract Procedure Rules – Updated throughout to reflect exit from the European Union. Added delegations to the Director of Resources and Business Transformation. Changes to authorities regarding ODR/EDR.</p> |
| <p>Part 5 – Members’ Code of Conduct</p> | <p>Changes have been made to the Members’ Code of Conduct to incorporate sections of the recently released Local Government Association Model Code of Conduct, as discussed by the Standards and Personnel Appeals Committee in a series of informal working group meetings.</p> <p>The ‘Introduction’ section has been expanded on, including wording from the LGA Model Code of Conduct. The following wording has been added into the introduction <i>“Councillors should be able to undertake their democratic role without being intimidated, abused, bullied or threatened by anyone, including the general public.”</i></p> <p>The ‘Interpretation’ section has been expanded to include clear definitions of a Councillor, Co-opted Member and Meeting. A paragraph has also been added setting out the purpose of the code of conduct for improved clarity and application.</p> <p>A further section titled ‘General Principles of Councillor Conduct’ has been added, building on the Nolan Principles to set out general principles that apply to the role of Councillor.</p> <p>The ‘Scope’ section has been expanded to provide further clarity on when the Code of Conduct applies, including the following wording <i>“This Code of Conduct applies to you as soon as you sign the Declaration of Acceptance of the Office of Councillor or attend your first meeting as a Co-opted Member and continues to apply until you cease to be a Councillor or Co-opted Member.”</i> Further detail has been included as the Code applies to all forms of communication and interaction, including the addition of electronic and social media communication, posts, statements, and comments.</p> |

| | |
|---|--|
| | <p>The 'General Obligations' section has been renamed to 'Obligations' and has been significantly expanded to include 12 obligations with accompanying guidance to explain the reasons for each obligation and how they should be followed. The 12 obligations include:</p> <ul style="list-style-type: none"> • Respect • Bullying, Harassment and Discrimination • Impartiality of Officers of the Council • Confidentiality and Access to Information • Disrepute • Use of position • Use of Local Authority Resources and Facilities • Complying with the Code of Conduct • Training • Predetermination or bias • Interests • Gifts and Hospitality <p>'Appendix B' has been added setting out the Schedule of Disclosable Personal Interests.</p> <p>The Code of Conduct has been reformatted for improved clarity and readability.</p> |
| Part 6 – Member/Officer Protocol | No changes. |
| Part 7 – Allowances | Living/minimum wage amounts amended to April 2021 figures. |
| Part 8 – Management Structure | The Senior Management Structure has been updated to the most recent version, as of March 2021. |
| Part 9 – Employees Code | Minor textual and formatting amendments to improve clarity and readability. |
| Part 10 – Planning Code | <p>Changed reference from Local Plan Steering Group to Local Plan Working Group.</p> <p>Amended titles throughout.</p> <p>Changed the time deadline for receiving late items from 3pm to 10am.</p> |

Implications

Corporate Plan:

The Council will strive to ensure effective community leadership, through good governance, transparency, accountability, and appropriate behaviours.

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.

Finance:

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

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 minimal HR implications as outlined in the body of the report with regard to minor changes to the Code of Conduct for Employees.

Equalities:

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

Other Implications:

None.

Reason(s) for Urgency

None.

Reason(s) for Exemption

None.

Background Papers

None.

Report Author and Contact Officer

Ruth Dennis
DIRECTOR OF LEGAL AND GOVERNANCE
MONITORING OFFICER
r.dennis@ashfield.gov.uk
01623 457009