



# Committee report

Committee	<b>AUDIT COMMITTEE</b>
Date	<b>25 JULY 2022</b>
Title	<b>REVIEW OF THE CONSTITUTION</b>
Report of	<b>MONITORING OFFICER</b>

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## EXECUTIVE SUMMARY

1. It is good practice to periodically review the local authority's constitution.
2. This report arises as a result of a decision on 18 May 2022 of the Full Council at its annual meeting for a further review of the current constitution to be undertaken, and that the Audit Committee is the appropriate body for overseeing this task due to its general governance oversight.
3. The purpose of this report is to formally notify this committee that such a review is to be carried out within this remit and the review outcome with recommendations is to be reported to the council as soon as practicable after completion of the review.
4. The review of the current constitution will consider suggestions for clarification/improvement that have been (or will be) put forward by councillors and others on the existing constitution and will invite further comments to seek to ensure that the constitution (as an ever-evolving document) is fit for purpose.
5. Councillors are asked, however, to note that a broader and deeper review is being separately considered as a part of the informal Transformational Change Working Group (TWCG), and any future recommendations arising relating to the constitution will be reported at a later date to the Audit Committee

## RECOMMENDATION

6. That the review of the current constitution be undertaken within the established remit, to be led by the Monitoring Officer, in consultation with the Chairman of the Audit Committee, with engagement of councillors to ensure relevant input.
7. That a report be brought back to the Audit Committee so that the committee can formally consider and make recommendations to the Full Council on the current constitution.

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| <p>8. That the ongoing work of the informal Transformational Change Working Group be noted and that any relevant recommendations from that Group be made to and reported to the Audit Committee at a future date.</p> |
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## BACKGROUND

9. The last full review of the constitution was concluded in November 2020, resulting in Full Council approving and adopting a revised constitution at its meeting on 18 November 2020.
10. Since that date, minor revisions have been made on an ad hoc basis, but no overall review of the current constitution has been undertaken. Suggested changes in the light of practical experience are noted as and when mentioned, and a “snagging list” is also kept.
11. As a matter of good practice, the Full Council decided at its annual meeting on 18 May 2022 that a review of the existing constitution is to be undertaken to address matters which have become apparent since the constitution was last reviewed as a whole.
12. Under section 9P of the Local Government Act 2000, the local authority is required to prepare and keep up to date its constitution [Local Government Act 2000 \(legislation.gov.uk\)](https://legislation.gov.uk).
13. Under section 9Q the local authority is required to have regard to any statutory guidance issued by the Secretary of State.
14. To assist with the implementation of the Local Government Act 2000, the then Labour Government introduced guidance from the then Department of Environment, Transport and the Regions (DETR) about the modular constitution. Over time legislative changes have occurred and such guidance must be read in this light as must the Local Government Act 2000 (Constitutions) (England) Direction 2000.
15. Between 17 May and 19 May 2022, the Local Government Association (LGA) undertook as a critical friend a planning peer challenge which resulted in a final report in June 2022.
16. One of the formal recommendations of this LGA report is *‘to urgently review the constitution and procedural rules to effectively deliver the council’s democratic function. The existing constitution is comprehensive in its scope but requires a refresh, in particular a review of the code of practice for councillors and officers should be undertaken as a matter of urgency. A review of protocols would benefit from a joint input from both councillors and officers’* (see page 7 of the LGA Report of June 2022).
17. Therefore, the existing constitution is to be reviewed, involving councillors and officers.

## CORPORATE PRIORITIES AND STRATEGIC CONTEXT

18. Good governance is an integral element of what the local authority does and supports the [Corporate Plan 2021 – 2025](#) and its corporate aims.

## CONSULTATION

19. Consultation will take place with all councillors during the course of the review of the existing constitution.

## FINANCIAL / BUDGET IMPLICATIONS

20. The review can be undertaken within the existing agreed budget.

## LEGAL IMPLICATIONS

21. The Local Government Act 2000 introduced the legal requirement to have a constitution under the then section 37 of the Local Government Act 2000.
22. Following changes brought in under the Localism Act 2011 the relevant provision (for England) is section 9P of the Local Government Act 2000.
23. The statutory requirement includes the duty to keep the constitution up to date [Local Government Act 2000 \(legislation.gov.uk\)](http://legislation.gov.uk) and it is required to include:
  - (a) the council's standing orders/procedure rules
  - (b) the members' code of conduct
  - (c) such other information as the local authority considers appropriate
  - (d) such information as the Secretary of State may direct.

## EQUALITY AND DIVERSITY

24. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
25. Under the Equality Act 2010 we are required to have due regard to our equality duties when making decisions, reviewing services, undertaking projects, developing and reviewing policies. This includes section 58 of the Equality Act 2010 as regards the official business of members.
26. It is not considered that this report has any negative impact on any of the protective characteristics.

## OPTIONS

27. Full Council has already decided that a review of the existing constitution is to be undertaken.

## RISK MANAGEMENT

28. Risks from any challenge to the decision-making process by way of judicial review or other such action should be lessened through this review.

## EVALUATION

29. Good governance arrangements are essential. Carrying out a review of the existing constitution should therefore further mitigate risks.

## BACKGROUND PAPERS

30. None.

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