

REPORT OF Senior Solicitor & Monitoring Officer

To: Council

Subject: Constitution update 2018

Date: 6 August 2018

Reference: JDH

PURPOSE OF REPORT:

To seek full Council approval for updates to the Constitution.

1. INTRODUCTION

It is proposed that the Council's Constitution should be updated to take account of various changes and proposed amendments identified since it was last issued. The Monitoring Officer role includes monitoring the Constitution and making recommendations for ways it could be improved to better achieve the purposes the Constitution is intended to achieve. These recommendations may arise from observations during Committee meetings, discussions with officers and Members, comparison with other local authorities and recognised best practice.

2. REPORT

This report proposes some more significant changes as well as general updates to the Council's Constitution. The more significant changes are outlined below, and all changes are summarised on the list at **Appendix A**. The changes have been considered by a Constitution Working Group comprising the political party group leaders and have been agreed for submission to full Council.

In the interests of efficiency, only the sections of the Constitution that have subject to proposed amendments have been reproduced in **Appendix B** to this report. All proposed changes have been identified with track changes.

The more significant referred to above can be summarised as follows:

- a) Members Code of Conduct to include a requirement that newly elected Members undergo a DBS (Disclosure and Barring Service) check: Undergoing a DBS check will enable the Council to receive a report showing the subject Member's criminal record, as is currently standard practice for many officers of the Council. The report would be used to identify any convictions that represent a risk in terms of the subject Member and their contact with members of the public, for example children or vulnerable people. If a risk is identified, then measures may be put in place to reduce the risk to an acceptable level.

Under the provisions of the Local Government Act, a Member is prevented from taking office if he or she has been convicted of an offence resulting in a sentence of imprisonment for a period of not less than 3 months, within 5 years before election or anytime thereafter. A Member can also be prevented from taking up office if disqualified for corrupt electoral practices. This however is a separate procedure than that proposed, and it is not a legal requirement for an elected Member to undergo a DBS check, and an elected Member cannot be prevented from taking up office either by refusing to undergo a DBS check or refusing to comply with any risk mitigation measures.

By including a requirement for DBS checks in the Members Code of Conduct, it shows the Council is actively taking steps to address any possible impact on the public arising from the previous conduct of an elected Member. If the requirement was included in the Code of Conduct, a refusal by a Member to undergo a DBS check would result in a possible referral to the Standards Committee.

If full Council is minded to agree the imposition of DBS checks, it is suggested that the Standards Committee is requested to consider a detailed procedure setting out how in practical terms how the DBS check process would be dealt with, including how any convictions revealed would be addressed.

- b) Every decision on a planning application by the Plans Committee is subject to a recorded vote: The Constitution currently provides that a recorded vote can be taken at any committee on any decision if 5 members of that Committee request it. It has been proposed that this provision is extended so that every planning application considered by the Plans Committee would automatically be subject to a recorded vote.

The objective is to increase transparency, particularly for those interested parties not at a meeting to witness the voting, without introducing any new voting method to confuse matters. The change would result in a slight delay when the decision is taken, although this would be minimal as the Committee is only comprised of 9 members.

The remaining amendments are relatively minor in nature, and are highlighted in **Appendix B** for Members' consideration.

3. IMPLICATIONS

Legal Implications

Non-administrative changes to the Constitution need to be approved by full Council.

Financial Implications

There are none identified

Human Resources Implications

There are none identified

Sustainability Implications

There are none identified

Equality/Diversity

The Constitution should incorporate relevant legal and good practice requirements.

Risk Management

There are none identified

Compliance with Policies and Strategies

There are none identified

Ward Member and Leader Member Views

The proposed amendments have been considered by the Constitution Working Group comprising the group leaders.

4. CONCLUSIONS

This report is intended to summarise a series of amendments necessary to ensure the Constitution is kept up to date.

5. RECOMMENDATIONS

As this report proposes some more significant changes as well as general updates, the recommendations have been drafted to easily allow a separate vote on each issue, should Members so wish.

1. It is recommended that full Council decide whether or not to adopt the following changes, which will then be incorporated into the Constitution:
 - a) Amend the Members Code of Conduct to include a requirement that newly elected Members undergo a DBS check;
 - b) Amend the Voting Scheme to require every decision on a planning application by the Plans Committee is subject to a recorded vote;
2. It is further recommended that full Council adopt the changes illustrated by the draft documents at **Appendix B**, which will then be incorporated into the Constitution

SUPPORTING INFORMATION

Consultations:	The proposed amendments have been considered by the Constitution Working Group comprising the group leaders, Head of Paid Service, S151 Officer.
Contact Officer:	Jamie Hollis
Background Papers:	The Council's Constitution