
Amendments to the Constitution

Committee considering report:	Council on 6 December 2018
Portfolio Member:	Councillor Dominic Boeck
Date Portfolio Member agreed report:	1 November 2018
Report Author:	Sarah Clarke
Forward Plan Ref:	C3260

1. Purpose of the Report

- 1.1 The Monitoring Officer together with other members of the Finance and Governance Group are required to keep the Constitution under regular review.
- 1.2 This paper proposes a number of amendments to Parts 2, 3, 10, 11 and 13 of the Constitution.

2. Recommendations

It is recommended that Council approve the following:

- (i) The amendments to the Articles of the Constitution which are detailed in Appendix D of this Report.
- (ii) The amendments to the Scheme of Delegation which are shown fully in Appendix E of this Report.
- (iii) The amendments to the Financial Rules of Procedure at Part 10 of the Constitution, as detailed in Appendix F of this Report.
- (iv) The amendments to the Contracts Rules of Procedure at Part 11 of the Constitution, as detailed in Appendix G of this Report.
- (v) The amendments to the Social Media Protocol for Councillors at Part 13 of the Constitution, as shown at Appendix H of this Report.

3. Implications

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|-----|-------------------|--|
| 3.1 | Financial: | Although the financial thresholds for bad debts will be amended to increase the level of debt that can be written off under delegated authority, there will be no actual financial impact as only bad debts will be written off. |
| 3.2 | Policy: | This report proposes amendments to the Constitution, including the Social Media Protocol for Councillors. |
| 3.3 | Personnel: | None |
| 3.4 | Legal: | It is essential that the Council's Constitution is maintained and updated to ensure that the Council operates within a sound and lawful governance framework. |

- 3.5 **Risk Management:** These proposals set out clear operational rules and guidelines which should reduce the risk of successful challenge.
- 3.6 **Property:** None
- 3.7 **Other:** None

4. Other options considered

- 4.1 The alternative to approving the proposed amendments is to not update the Constitution. This is not recommended for the reasons detailed in the report.

Executive Summary

5. Introduction / Background

- 5.1 Throughout the year the Governance and Ethics Committee is referred to amendments to the Council's constitution and its rules of procedure where amendment is considered necessary. Subject to its view, matters are then referred to Council for adoption. This ensures that administrative processes remain effective and efficient.

6. Proposals

- 6.1 It is proposed that a number of amendments are made to the Constitution.
- 6.2 It is proposed that the Financial Rules of procedure be amended to increase the level of bad debt that the Head of Finance and Property is authorised to write off from the current limit of £10k to £25k.
- 6.3 Commercial Board has recently been renamed Procurement Board and a review of existing requirements under Part 11 has demonstrated that a number of requirements do not provide any additional benefits. Specifically, this relates to the requirement to provide reports for information to Corporate Board and Operations Board detailing decisions which can be taken under delegated power once the matter has been considered and agreed by Procurement Board. It is proposed to remove the requirement to provide information reports in the existing manner.
- 6.4 It is also proposed that the Scheme of Delegation and Financial Rules of Procedure be amended to enable the Head of Finance and Property in consultation with the Portfolio Holder for Finance, the Head of Human Resources and the Head of Legal, be authorised to make payments up to a maximum of £5k, to officers of tier 3 and below where that officer(s) have suggested an idea which has generated significant income for the Council.
- 6.5 It is proposed that the Scheme of Delegation be amended to delegate power to the Personnel Committee to allocate the statutory posts of Director of Children's Services and the Director of Adults Services to appropriate officers.
- 6.6 Following the update to the Officers Code of Conduct which was approved by Council in March to include a section on the use of social media, the Social Media Protocol for Councillors was also identified as being in need of updating. The amendments which are proposed to this are fully detailed in Appendix H.

7. Conclusions

- 7.1 It is considered that the proposed changes will ensure that the Council maintains a robust and efficient governance and decision making framework. The update to the Social Media Protocol for Councillors will also provide updated clarity and guidance for Members when using social media.

8. Appendices

- 8.1 Appendix A – Data Protection Impact Assessment
- 8.2 Appendix B – Equalities Impact Assessment

- 8.3 Appendix C – Supporting Information
- 8.4 Appendix D – Proposed Amendments to Part 2 of the Constitution
- 8.5 Appendix E – Proposed Amendments to Part 3 of the Constitution
- 8.6 Appendix F – Proposed Amendments to Part 10 of the Constitution
- 8.7 Appendix G – Proposed Amendments to Part 11 of the Constitution
- 8.8 Appendix H – Proposed Social Media Protocol for Councillors

Appendix A

Data Protection Impact Assessment – Stage One

The General Data Protection Regulations require a Data Protection Impact Assessment (DPIA) for certain projects that have a significant impact on the rights of data subjects.

Should you require additional guidance in completing this assessment, please refer to the Information Management Officer via dp@westberks.gov.uk

Directorate:	Resources
Service:	Legal Services
Team:	
Lead Officer:	Sarah Clarke
Title of Project/System:	Review of Constitution
Date of Assessment:	16 October 2018

Do you need to do a Data Protection Impact Assessment (DPIA)?

	Yes	No
<p>Will you be processing SENSITIVE or “special category” personal data?</p> <p><i>Note – sensitive personal data is described as “data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation”</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will you be processing data on a large scale?</p> <p><i>Note – Large scale might apply to the number of individuals affected OR the volume of data you are processing OR both</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will your project or system have a “social media” dimension?</p> <p><i>Note – will it have an interactive element which allows users to communicate directly with one another?</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will any decisions be automated?</p> <p><i>Note – does your system or process involve circumstances where an individual’s input is “scored” or assessed without intervention/review/checking by a human being? Will there be any “profiling” of data subjects?</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will your project/system involve CCTV or monitoring of an area accessible to the public?</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will you be using the data you collect to match or cross-reference against another existing set of data?</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will you be using any novel, or technologically advanced systems or processes?</p> <p><i>Note – this could include biometrics, “internet of things” connectivity or anything that is currently not widely utilised</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

If you answer “Yes” to any of the above, you will probably need to complete [Data Protection Impact Assessment - Stage Two](#). If you are unsure, please consult with the Information Management Officer before proceeding.

Appendix B

Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- “(1) A public authority must, in the exercise of its functions, have due regard to the need to:**
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;**
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; This includes the need to:**
 - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;**
 - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;**
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.**
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.**
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.”**

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?

Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

What is the proposed decision that you are asking the Council to make:	The proposal is to make various amendments to the Council's Constitution.
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Summary of relevant legislation:	Various, including Local Government Act 1972
Does the proposed decision conflict with any of the Council's key strategy priorities?	No
Name of assessor:	Sarah Clarke
Date of assessment:	16 October 2018

Is this a:		Is this:	
Policy	No	New or proposed	No
Strategy	No	Already exists and is being reviewed	Yes
Function	Yes	Is changing	Yes
Service	No		

1 What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?	
Aims:	To review the Constitution to ensure that it is up to date.
Objectives:	To ensure that the Council has effective, efficient and lawful decision making systems in place.
Outcomes:	The Council will be able to take effective decisions in a lawful.
Benefits:	The Council can operate in an effective and efficient manner.

2 Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this. (Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)		
Group Affected	What might be the effect?	Information to support this
Age	None	
Disability	None	
Gender Reassignment	None	
Marriage and Civil Partnership	None	
Pregnancy and Maternity	None	
Race	None	
Religion or Belief	None	

Sex	None	
Sexual Orientation	None	
Further Comments relating to the item:		
The proposal affects the rules governing how the Council will conduct itself, and includes proposals relating to how some decisions will be made.		

3 Result	
Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?	No
Please provide an explanation for your answer: See above	
Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?	No
Please provide an explanation for your answer: See above	

If your answers to question 2 have identified potential adverse impacts and you have answered 'yes' to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the [Equality Impact Assessment guidance and Stage Two template](#).

4 Identify next steps as appropriate:	
Stage Two required	No
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	

Name: Sarah Clarke

Date: 16.10.18

Please now forward this completed form to Rachel Craggs, Principal Policy Officer (Equality and Diversity) (rachel.craggs@westberks.gov.uk), for publication on the WBC website.