
Proposals for Reviewing the Constitution – Summary Report

Committee considering report: Governance and Ethics Committee 29 July 2019

Portfolio Member: Councillor Howard Woollaston

Date Portfolio Member agreed report: 04 July 2019

Report Author: Sarah Clarke

Forward Plan Ref: GE3792

1. Purpose of the Report

1.1 To provide an outline plan for the review of the Council's Constitution.

2. Recommendations

2.1 That a cross party task group be appointed by the G&E Committee to oversee and progress this review.

2.2 It is proposed that the task group be supported by appropriate officers.

2.3 To approve the planned review and indicative timetable detailed in Appendix C.

3. Implications

3.1 **Financial:** None

3.2 **Policy:** None

3.3 **Personnel:** This project will create a pressure within Legal and Strategic Support as it is not proposed that any additional resource will be made available to undertake this review.

It is considered however that a structured review with appropriate officers can be undertaken with existing resources.

3.4 **Legal:** It is essential for the Council's good governance that the Constitution remains up to date and is fit for purpose. Although the Constitution has been subject to a programme of rolling review, it is considered that a systematic and comprehensive review is timely following the recent elections.

3.5 **Risk Management:** Ensuring that the Constitution is up to date and fit for purpose should reduce the risk of successful legal challenge on the basis of the decision making process.

3.6 **Property:** None

3.7 **Other:** None

4. Other options considered

4.1 Not reviewing the Constitution. For the reasons outlined in the report, this is not recommended.

4.2 Continuing with the existing timetabled review. For the reasons detailed in the report, this is not recommended.

Executive Summary

5. Introduction / Background

- 5.1 At the meeting of Governance and Ethics Committee which took place on the 17th June 2019, Members proposed that a systematic review of the Constitution take place over the coming year.
- 5.2 It was further proposed that a task group be set up to support this piece of work, which it was acknowledged would be a substantial undertaking.
- 5.3 Following that, a Motion was submitted to Council proposing a number of amendments to the Constitution, and those proposals will be considered as part of this review.

6. Proposals

- 6.1 It is proposed that a task group consisting of Members, to be determined by the Governance and Ethics Committee on the basis of proportionality rules, be established to oversee this project.
- 6.2 It is proposed that the task group should be supported by the Monitoring Officer (or deputy) the Democratic & Electoral Services Manager (or deputy) and where necessary, the Council's s151 Officer (or deputy).
- 6.3 Any amendments to the existing Constitution will need to be approved by Council. It is considered that any recommendations for amendments be brought forward for approval at appropriate times, rather than waiting for the full review to be completed.
- 6.4 It is proposed that the review be completed by August 2020, with final changes being approved at Council in December 2020.

7. Conclusions

- 7.1 This is a timely proposal and it is therefore recommended that the review of the Constitution be undertaken in the manner detailed in this report.

8. Appendices

- 8.1 Appendix A – Data Protection Impact Assessment
- 8.2 Appendix B – Equalities Impact Assessment
- 8.3 Appendix C – Supporting Information

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 and Strategic Support
Team:	
Lead Officer:	Sarah Clarke
Title of Project/System:	Constitution Review
Date of Assessment:	24 June 2019

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>Note – sensitive personal data is described as “<i>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"/>	X
<p>Will you be processing data on a large scale?</p> <p>Note – Large scale might apply to the number of individuals affected OR the volume of data you are processing OR both</p>	<input type="checkbox"/>	X
<p>Will your project or system have a “social media” dimension?</p> <p>Note – will it have an interactive element which allows users to communicate directly with one another?</p>	<input type="checkbox"/>	X
<p>Will any decisions be automated?</p> <p>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?</p>	<input type="checkbox"/>	X
<p>Will your project/system involve CCTV or monitoring of an area accessible to the public?</p>	<input type="checkbox"/>	X
<p>Will you be using the data you collect to match or cross-reference against another existing set of data?</p>	<input type="checkbox"/>	X
<p>Will you be using any novel, or technologically advanced systems or processes?</p> <p>Note – this could include biometrics, “internet of things” connectivity or anything that is currently not widely utilised</p>	<input type="checkbox"/>	X

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 Governance and Ethics Committee to make:	To approve the details of a proposed review of the Council’s Constitution
Summary of relevant legislation:	Relevant local government primary and legislation
Does the proposed decision conflict with any of the Council’s key strategy priorities?	No
Name of assessor:	Sarah Clarke
Date of assessment:	24 June 2019

Is this a:		Is this:	
Policy	No	New or proposed	No
Strategy	No	Already exists and is being reviewed	Yes
Function	Yes	Is changing	No
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
Objectives:	To ensure that the Constitution is up to date
Outcomes:	Effective decision making
Benefits:	More effective decision making

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 – This proposal will affect all equally	
Disability	None – This proposal will affect all equally	

Gender Reassignment	None – This proposal will affect all equally	
Marriage and Civil Partnership	None – This proposal will affect all equally	
Pregnancy and Maternity	None – This proposal will affect all equally	
Race	None – This proposal will affect all equally	
Religion or Belief	None – This proposal will affect all equally	
Sex	None – This proposal will affect all equally	
Sexual Orientation	None – This proposal will affect all equally	
Further Comments relating to the item:		

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: This is a proposed review of the Constitution.	
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: This is a proposed review of the Constitution and will not adversely affect the lives of any individual.	

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	Non
Owner of Stage Two assessment:	

Timescale for Stage Two assessment:	
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Name: Sarah Clarke

Date: 24 June 2019

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.