

WAVERLEY BOROUGH COUNCIL

STANDARDS COMMITTEE

27 SEPTEMBER 2021

Title:

Review of the Constitution – Approach and timetable

Head of Service: Robin Taylor, Head of Policy & Governance & Monitoring Officer

Key decision: No

Access: Public

1. Purpose and summary

- 1.1 In April 2021, Full Council instructed the Standards Committee to carry out a comprehensive review of the Constitution. The Constitution of Waverley has been revised on a piecemeal basis over the years and as a result a number of inconsistencies and anomalies have appeared. The Constitution can sometimes be difficult to navigate and understand, so a revision will ensure it is a useful document for councillors, officers, and residents.
- 1.2 This report sets out the proposed approach and timetable for the review of the Constitution, including establishment of a cross-party Member Working Group representing key governance stakeholders to work with officers in developing the revised Constitution and bring forward recommendations to the Standards Committee, and Council.

2. Recommendation

- 2.1 It is recommended that the Standards Committee:
- (i) endorses the objectives for the Constitution review – to produce a Constitution for Waverley that is legally compliant and reflecting current standards of good practice; is easy to navigate and to understand who takes decisions and how; and reflects the present values of the council.
 - (ii) endorses the revised structure of the Constitution to improve the readability and accessibility for Members, Officers and the public, and ensure the Constitution is properly placed as a core working document in the governance structure.
 - (iii) notes the aim to submit the revised Constitution to Full Council in February 2022.

3. Reason for the recommendation

The Council has a legal duty to keep its Constitution under review. The current Constitution is based on the original model constitution issued following the Local Government Act 2000 and is structured in such a way that embeds repetition and makes it hard to read and understand. The proposed approach aims to address

these issues whilst engaging with key stakeholders, to produce an up to date, accessible and useful document.

4. Background

- 4.1 The constitution sets out how the council operates, how decisions are made and the procedures that are followed to ensure that it is efficient, transparent and accountable to residents. Under ss.9P and 37 of the Local Government Act 2000, the council is under a legal duty to prepare and keep its constitution up to date. One of the principal duties of the Monitoring Officer is to review the constitution to ensure that it complies with legislation and best practice.
- 4.2 The council's current constitution is based on the original model constitution and has been revised and supplemented in a piecemeal fashion over the years. Consequently, the document can be difficult to navigate and has become unwieldy; it is not a useful working document for Members or Officers, and it is not easily understandable to the public.
- 4.3 Over the last few years a number of councils have restructured their constitutions to make them more accessible and streamlined. The most significant feature of the new style of constitution is the absence of Articles (Part 2 of the current constitution), with the information traditionally set out in the Articles moving into the Summary and Explanation or into the Responsibility for Functions sections. There is no legal requirement to have Articles in the constitution and removing them immediately reduces a great deal of the duplication in the document as a whole. An example of the content of the constitution in the new structure is set out in Annexe 1. The Standards Committee is asked to endorse this new structure for Waverley's revised constitution.
- 4.4 The aim of the review of the constitution is to ensure that it is legally compliant, and more accessible and a useful working document. It is also an opportunity to look at the arrangements and procedures set out in the constitution and to consider whether those reflect the way the council works and wants to work going forward. To ensure that all key stakeholders are engaged with this process before recommendations come forward to Full Council the Standards Committee will consult with key governance stakeholders from across the council as proposals are developed and considered by the Committee.
- 4.5 The intention is to submit the revised constitution in its restructured format to Full Council in February 2022. It is not the intention that all the component Protocols and Codes will have been reviewed and updated at that time, but where further work is needed this will have been identified and the work scheduled.

5. Relationship to the Corporate Strategy and Service Plan

- 5.1 The Council's Constitution is the core governance document and underpins all the Council's work.

6. Implications of decision

6.1 Resource (Finance, procurement, staffing, IT)

There are no resource implications. The work will be carried out by the Monitoring Officer team.

6.2 Risk management

The Constitution is the Council's core governance document. Ensuring that the constitution is fully legally compliant, accessible and useful will reduce the risk of governance arrangements being inadvertently compromised.

6.3 Legal

Section 37 of the Local Government Act 2000 requires the Council to keep its Constitution under review.

6.4 Equality, diversity and inclusion

There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

6.5 Climate emergency declaration

There are no direct climate emergency impacts from this work.

7. Consultation and engagement

7.1 N/A

8. Other options considered

8.1 The options are to:

(1) simply update the Constitution in its current form. However, this would retain many of the issues the current Constitution has, including duplication of information, lack of readability and accessibility, and it would continue to be resource intensive to maintain.

(2) significantly restructure the Constitution to reduce duplication, and make it more readable, accessible, understandable, and useful.

9. Governance journey

9.1 This report makes recommendations to the Standards Committee on the approach for the Constitution Review. Ultimately, the Standards Committee will make recommendations to the Council for approval.

Annexes:

Annexe 1 – Example title page for the revised Constitution

Background Papers

There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

CONTACT OFFICER:

Name: Robin Taylor
Position: Head of Policy & Governance (Monitoring Officer)
Telephone: 0148 3523108
Email: robin.taylor@waverley.gov.uk

Agreed and signed off by:

Legal Services: date

Head of Finance: date

Strategic Director: date

Example title page for the revised Constitution: Contents

Part 1 Summary and Explanation

This section describes how the Council operates, the key parts of the Constitution, and what rights members of the public/residents have.

This section will incorporate some detail currently set out in the Articles.

Part 2 Responsibility for Functions

Decision-making structure chart

Council functions

Local Choice Functions

Executive Functions

Committees - Terms of Reference

Joint Arrangements

Officer delegations (& Management Structure Chart)

This section will incorporate some detail currently set out in the Articles.

Part 3 Procedure Rules

Council Procedure Rules

Committee Procedure Rules (where these vary from Council PRs)

Executive Procedure Rules

Overview and Scrutiny Procedure Rules (including Call-in arrangements and Councillor Call for Action)

Access to Information Procedure Rules

Budget and Policy Framework Procedure Rules

Financial Procedure Rules

Contract Procurement Rules

Officer Employment Procedure Rules

Part 4 Codes and Protocols

Members' Code of Conduct (and Arrangements for dealing with complaints regarding breach of the Code)

Officers' Code of Conduct

Protocol on Member/Officer Relations

Petition Scheme

Executive Working Group Protocol

Executive/Scrutiny Protocol

Part 5 Members' Allowances Scheme

Part 6 Glossary of Terms