

Harborough District Council



Report to Council Meeting of 15 May 2023

Title:	Annual Review of the Constitution of the Council
Status:	Public
Key Decision:	No
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Lead Councillor:	TBC
Appendices:	A – Roadmap B – form for providing comments and feedback on the proposed constitution

Summary

- i. It is best practice for a local authority to review its constitution on an annual basis to ensure that it remains fit for purpose.
- ii. The Council has been aware for some time that there are areas of the constitution that could be streamlined and updated to reflect the current local government environment. It therefore tasked the Constitutional Review Committee with undertaking this review.
- iii. On 26 April 2023 the Constitutional Review Committee concluded that while substantial strides had been taken in identifying updates to the constitutions, the review was not yet complete. Accordingly, at this stage it is premature to ask the Council to consider the same.
- iv. This report therefore summarises the issues identified in the current constitution and proposes solutions for the same.
- v. Council is asked to endorse the approach taken to date to review the constitution, and note that the revised constitution will be presented to the next meeting of Council for adoption.

Recommendations

1. Council is invited to note:
 - (a) the work undertaken by the Constitutional Review Committee to identify proposed changes to the constitution;
 - (b) that the revised constitution will be presented to the next meeting of Council for decision;
 - (c) that councillors are invited, before the next meeting of the Constitutional Review Committee, to contribute to the review of the constitution via a feedback template (as an online Form or as a Word document), direct contact with the Chair of the Constitution Review Committee or the Monitoring Officer, and via online questionnaires;

Reasons for Recommendations

1. The constitution ensures that the governance framework of a local authority is open, transparent, and undertaken applying proper decision making principles. It is a fundamental building block of good governance and legislation requires it to be reviewed and updated as appropriate.
2. As well as governing the conduct of meetings, the constitution sets out the decision taking structure of the Council and the regulations under which a range of processes take place, together with Codes of Conduct for Councillors and Officers, working relationships and other detailed matters which together govern the Local Authority. It is therefore vital that the constitution is maintained and provides a framework for scrutiny and challenge of individual decisions.
3. This interim report allows Council to review progress made to date on the review of the constitution and input into the same.

1. Purpose of Report

- 1.1 This report includes an assessment of the current constitution for Harborough District Council, and suggestions for future versions of the constitution. It provides a summary of the assessment and proposals (referred to as the “roadmap” at Appendix A).

2. Background

- 2.1 Councillors have acknowledged that whilst the constitution has been updated in some respects to reflect changes within the Council over the last two years, it has not been comprehensively reviewed and refreshed. It is however a fundamentally important document, setting out the parameters within which both officers and councillors will operate.

- 2.2 The Local Government and Housing Act 1989 confirms at Section 20 that local authorities must set out their “standing orders”, and that the Secretary of State can specify the detail that must be included. This detail is currently contained within the requirements of the Local Authorities (Standing Orders)(England) Regulations 2001. Further, section 37 of the Local Government Act 2000 requires local authorities operating executive arrangements (such as the Leader and Cabinet model) to prepare and keep up to date a document which contains:
- 2.2.1 such information as the Secretary of State may direct;
 - 2.2.2 the authority’s standing orders (i.e. rules of procedure);
 - 2.2.3 the code of conduct for councillors; and
 - 2.2.4 such information as the authority considers appropriate.
- 2.3 The Council’s constitution was last considered and adopted by councillors on 22 June 2022. It follows a relatively standard presentation via a number of Parts and can be accessed on the Council’s website¹.
- 2.4 A MS Teams site was set up for the Constitution Review Committee (‘CRC’) to encourage Members to contribute their views as the revised proposals were brought forward. To help focus attention where instructions were required, questionnaires were used as well as the site’s messaging function. The site library was also populated with folders which contained a variety of documents, including the ‘Roadmap’ for the constitution review² – a high level document identifying all of the potential areas for improvement in the constitution – and a copy of the existing constitution for ease of reference (see Appendix A).
- 2.5 Members of the CRC have been encouraged to canvass the views of fellow councillors to inform their feedback on the proposed changes to the Constitution. Multiple methods of feeding back have been provided, including a MS Word document with a table³ and, most recently, an MS Form allowing feedback⁴ to be provided by paragraph number, section, part or generally.

¹ <https://cmis.harborough.gov.uk/CMIS5/Document.ashx?czJKcaeAi5tUFL1DTL2UE4zNRBcoShgo=JG32kUvaRyobRInuuA46THcoUQQ312hEvLIqscQbEQEJHBdz0acl7Q%3d%3d&rUzwRPF%2bZ3zd4E7lkn8Lyw%3d%3d=pwRE6AGJFLDNIh225F5QMaQWCtPHwdhUfCZ%2fLUQzqA2uL5jNRG4jdQ%3d%3d&mCTIbCubSFfXsDGW9lXnlq%3d%3d=hFfIUdN3100%3d&kCx1AnS9%2fpWZQ40DXFvdEw%3d%3d=hFfIUdN3100%3d&uJovDxwdjMPoYv%2bAJvYtyA%3d%3d=ctNJFf55vVA%3d&FgPIIEJYlotS%2bYGoBi5olA%3d%3d=NHdURQburHA%3d&d9Qji0ag1Pd993jsyOJqFvmyB7X0CSQK=ctNJFf55vVA%3d&WGewmoAfeNR9xqBux0r1Q8Za60lavYmz=ctNJFf55vVA%3d&WGewmoAfeNQ16B2MHuCpMRKZMwaG1PaO=ctNJFf55vVA%3d>

² <https://harboroughcouncil.sharepoint.com/:w:/r/sites/CouncillorBriefings/Shared%20Documents/Constitution%20Review/Draft%20Constitution/CRC%20MST%20Roadmap.docx?d=w33c0eff55b9f421982bd403c439412eb&csf=1&web=1&e=VRJcsL>

³ <https://harboroughcouncil.sharepoint.com/:w:/r/sites/CouncillorBriefings/Shared%20Documents/Blank%20Comments%20on%20the%20draft%20constitution.docx?d=w72ca338bb55b4a1e848b6faab7a1436a&csf=1&web=1&e=QkQ2Gi>

⁴ <https://forms.office.com/e/WuvYBnPsh7>

3. Details

- 3.1 A thorough review of the constitution is required to ensure that it is a coherent and consistent document. It appears that, over recent years, the constitution has been updated in a piecemeal fashion and this means that there are inconsistencies and contradictions throughout the document. These inconsistencies have required a greater degree of interpretation of the constitution than would usually be expected. Further, the constitution omits certain matters and in other areas is incorrect. For example:
- 3.1.1 Article 2 (Part 2) references the qualifying age for election to the Council as 21- this changed to 18 years as a consequence of section 17 of the Electoral Administration Act 2006;
 - 3.1.2 The Councillors Allowance Scheme (Part 6 of the Constitution) does not include the allowance payable to the Chair of the Council;
 - 3.1.3 The special responsibility allowances in the constitution approved in June 2022 are incorrectly recorded as being equal – the correct figures were adopted in 2019 and there has been no Independent Remuneration Panel since (the allowances have however been paid at the correct rate notwithstanding the inaccuracy contained in the constitution);
 - 3.1.4 The Management Structure (Part 7) is out of date with delegations recorded to posts that are not reflected on the structure;
 - 3.1.5 The articles (Part 2) do not contain any reference to a “Scrutiny Commissioner” or even a Chair of Scrutiny but rather reference the “Scrutiny Commission and Panels” yet the Council Procedure Rules (Part 4) include appointment of a Scrutiny Commissioner in the agenda of the Annual Meeting, and the Members Allowance Scheme (Part 6) awards a special responsibility allowance to the “Chairman of the Scrutiny Commission”;
 - 3.1.6 The Council designates a Crime and Disorder Committee, but delegates its functions to the Communities Scrutiny Panel and therefore does not nominate members to the Crime and Disorder Committee;
 - 3.1.7 Section B.2.4 of the Responsibility for Function section (Part 3) delegates responsibility to “the Director with responsibility for regulatory functions” but no director is delegated this responsibility within the Scheme of Officer Delegation;
 - 3.1.8 The Statement of Required Practice for Procurement, at paragraph 58, does not reference the Equality Act 2010, instead referencing the legislation that it replaced.
- 3.2 Accordingly, it is necessary, proportionate and appropriate for the updating of the constitution to be undertaken as a matter of priority to remove such inaccuracies and inconsistencies and thereby establish a more solid foundation for the Council’s actions.
- 3.3 Further, there is a legal requirement, with limited exemptions, to have documents which are available on public sector websites to be accessible. The review of the constitution has taken into account accessibility requirements and has resulted in changes in the format, numbering and layout of the constitution.

- 3.4 Councillors will find attached at Appendix A the 'Roadmap' for the proposed updating of the constitution. This document evolves as the constitution is updated but clearly identifies all of the sections of the constitution, and sets out the potential issues with the same. It then goes on to summarise at a high level what is proposed to resolve the identified issues. This could be to delete the section, merge it with another part of the constitution, re-draft it or take no action if the section is appropriate. In the event that the section requires input from a body other than the Council (such as an Independent Remuneration Panel for the Members Allowances) suggestions are made as to how the section could be changed with appropriate agreement. This document is therefore an introduction to the proposed changes to the constitution. Reading the roadmap does not replace reviewing the proposed amendments, but will provide an overview of which can guide more focused consideration of the proposed changes to the constitution. Further detail of the changes proposed are summarised below.

Part One – Introduction

- 3.5 The Council is required by law to provide a summary of its constitution. The vast majority of councils meet this requirement by summarising the constitution in the introduction. The existing introduction has been updated to include details of the district and more clearly reflect the contents of the constitution. A glossary of common local government abbreviations and terms is included to assist understanding of the constitution and enable multiple definitions of the same terms to be removed from the body of the constitution, thus reducing duplication and inconsistencies throughout. Further, particularising terms allows updates to the terms to be made to those terms without needing to repeat the update throughout the constitution.

Part Two - Articles

- 3.6 The Articles of the Council form the fundamental building of the Constitution and therefore how the Council will operate. They define the elements that make up the Council and the responsibility each has towards the Council. While changes have been proposed to the language and presentation of the Articles to more accurately reflect the Council, the biggest change is the suggestion that some of the Articles can be harmonised and combined, while others can be removed in their entirety from the Constitution. Where removal is recommended, this is not advocating for the Council to abandon use of the former content of the website, rather that it is placed on another part of the site for access. In determining what should stay in the constitution, regard was had to regulations prescribing the content of the constitution.
- 3.7 It is proposed that the existing articles are revised as set out below – the proposed revised article number appearing in brackets:
- Article 1 (1) This introduces the constitution and sets out its purpose. It also sets out how the constitution will be interpreted, updated and suspended.
- Article 2 (2) This article introduces the Members of the Council. It has been updated and modernised, with cross references linking to functions and roles in other areas of the constitution. The rights, duties, roles and functions of a councillor have been expanded upon.

- Article 3 (3) This article relates to the relationship between citizens and the Council. It has not fundamentally changed however additional information has been included, language simplified and cross referencing opportunities identified.
- Article 4 (4) This article relates to the “full” Council of 34 councillors. It has been updated and modernised and cross referencing introduced. It is proposed that the reference to housing land transfers are removed given the Council no longer owns more than 500 homes. It explains the policy framework and the relationship between Council and its committees. Article 4 also introduces the requirements for managing the budget and how the responsibility for functions will be discharged, cross referencing the delegations capability.
- Article 5 (-) This article currently is entitled “Chairing the Council”. It is proposed this is combined with the Civic Protocol and retained at Part 5 of the constitution.
- Article 6 (5) The Leader and the Cabinet are introduced in this Article, which will become the new Article 5 if the proposed deletion of the current Article 5 is accepted. This sets out the form and composition of the executive decision makers of the Council, including the appointment of the Leader and the Cabinet. Cross referencing to procedure rules have been added.
- Article 7 (6) The original Article 7 addressed the scrutiny function, so it is proposed this is now re-numbered Article 6. The article has been updated to reflect the decision to remove the scrutiny commissioner and instead have 2 overview and scrutiny panels, with an increased number of councillors sitting on each, which will hopefully allow for more independent councillors to access the function as of right if so returned after the election. The implication of this change impacts across other articles as well as Parts 3 – 5 of the constitution. This article also identifies the statutory scrutiny officer.
- Article 8 (7) Formerly Article 8, the proposed new article 7 provides the detail on the delegation of Council functions to committees. It provides a summary of each type of committee and its role within the Council.
- Article 9 (8) The proposed new Article 8 details arrangements for outside bodies and joint arrangements, merging the former articles 8 and 9 to create one complete article setting out the limits of authority to act on behalf of the Council with other bodies and addresses the power of competence. Cross referencing is indicated and provision also made for partnerships, companies, trusts and charities that the Council has an interest in. This includes the responsibilities of statutory chief officers in relation to those bodies. Further, the article now references internal and external bodies, and lists the Council’s current joint arrangements.
- Article 10 (9) The proposed new Article 9 details the arrangements for senior officers of the authority, including the statutory officers. It has been expanded to more clearly define Statutory Chief Officers from Chief Officers, and links to the relevant Officer Employment Rules (Part 4) and the Protocols (Part 5). Details as to areas of responsibility have been referred to the Officer Delegation Scheme at Part 3 to ensure there is no repetition of

responsibilities (and therefore reduced risk that areas will be missed when the constitution is updated in future).

Article 11 (10) The proposed new Article 10 reflects the decision making framework for the Council. It has been cross referenced to the rules adopted at Part 4 of the Constitution, and the protocols at Part 5. It cross references the Scheme of Delegation at Part 3 of the Constitution without replicating it to reduce duplication and minimise potential future risk that the constitution is not fully updated.

Article 12 (11) The proposed new Article 11 reflects the corporate governance around the management of the Council's financial and legal affairs. The article has been updated and now provides for technological advances such as electronic signing and sealing of documents, and the utilisation of Welland Partnership for procurement advice.

3.8 It is important that the articles contain the structure by which the council will operate, without duplicating information better presented elsewhere in the Constitution or outside of the constitution. The above proposals ensure that the statutory requirements for the constitution are met, collects related topics together and removes duplication.

Part Three – Responsibility for Functions

3.9 This part of the constitution effectively sets out who does what within the governance structure of the Council. It will separate the functions which belong to the Council (i.e. non-executive functions) from those that belong to the executive (effectively everything not reserved to Council) as well as recording whether the function has been delegated to a committee, individual member or officer. The draft of this part of the constitution is not yet available.

Part Four – Rules and Procedure

3.10 This part of the constitution contains the various sets of rules and procedures that apply to the various different parts of the Council. These documents provide a consistent framework through which the council operates:

Council Procedure Rules

3.11 These rules have been refreshed and updated to ensure consistency. They provide for more public and member engagement in Cabinet meetings in particular through the ability to submit questions in advance of meetings, and ask questions in the meeting. There are proposals for tweaks to the rules, such as specific provision in relation to the circumstance in which meetings can be cancelled or called with shorter notice. Member instructions are sought on the handling of outstanding business in the event that the guillotine applies to a meeting. The rules also now address the issue of hybrid virtual meetings.

Access to Information Rules

3.12 These rules have been updated and refreshed to provide greater clarity and remove duplication. They reflect the removal of the Scrutiny Commissioner and provide a clear route for Key Decisions to be made, recorded and challenged. They ensure a more consistent approach to access to information for agendas and minutes, and also reflect

the current legal position on notice of meetings – in particular private formal meetings of the Cabinet. The rules also determine how decisions will be published to ensure transparency and openness in the Council’s activities.

Budget and Policy Framework Rules

- 3.13 Legislation prescribes the policies that the Council must adopt by law as part of its Policy Framework. Thereafter, the Council can decide which policies it wishes to include in its policy framework. Any policy which is part of the policy framework can only be amended by Council. It is therefore important that the Council ensure that the policies it designates as part of its policy framework are those that are most fundamental to the district. Similarly, only Council can determine the budget, and it is the responsibility of all other sections of the Council to ensure that the decisions they implement do not conflict with the budget set by Council.

Executive Procedure Rules

- 3.14 This is the proposed name for the former Cabinet Procedure Rules to help officers and staff distinguish between the rules that apply to functions which are executive in nature, and those which are reserved to the Council or its committees. They address similar features to the Council Procedure Rules – access to meetings, minutes and agenda’s etc. - but reflect the difference between the discharge of executive functions, particularly Key Decisions, and those which are non-executive in nature.

Overview and Scrutiny Procedure Rules

- 3.15 It is proposed that “Overview” is included in the title of these rules as the statutory designation of the functions discharged is that of “overview and scrutiny”. Each function is of equal value and importance and it is therefore appropriate that each is represented in the title of the procedure rules. The changes to these rules appear more fundamental as a consequence of the decision to remove the role of Scrutiny Commissioner, and instead retain the two overview and scrutiny panels with increased membership, additional meetings and greater capacity to support focused task and finish groups. Where the Scrutiny Commissioner had a role in any governance process for the Council, it is proposed that this responsibility is attributed to the chairs of the Overview and Scrutiny Panels instead.

Financial Procedure Rules

- 3.16 These rules provide assurance, transparency and accountability in relation to the financial affairs of the Council. They propose the consistent adoption of “Chief Finance Officer” to identify the responsible officer throughout, removing references to individual posts that no longer exist in the management structure, and functions that the Chief Finance Officer no longer has to perform, such as “day to day operational oversight of Internal Audit”. They also remove references to committees that no longer exist in the Council (e.g. Constitutional Affairs Committee reference at paragraph 9 of the current rules) and introduce designations recommended as good practice such as the Money Laundering Reporting Officer. Specific provision is also proposed for alternative service delivery vehicles, such as the Council’s company.
- 3.17 The review of Financial Procedure Rules will not be completed until such time as the review of the Procurement and Contract Rules is complete.

Procurement and Contract Rules

- 3.18 This is the proposed new name for the current Contract and Procurement Rules to ensure that there can be no confusion between them (abbreviated to CPR) and the Council Procedure Rules (also abbreviated to CPR). Councillors will recall that the Cabinet Procedure Rules (also abbreviated to CPR) are proposed to be renamed as the Executive Procedure Rules for the same reason. Although each paragraph of the constitution is proposed to have a unique reference number, it is considered prudent to ensure that the abbreviations of the rules are also unique.
- 3.19 The Council has recently entered into arrangements for its procurement function to be provided through the Welland Partnership rather than the previous in-house provision. Accordingly, it is proposed that the Procurement and Contract Rules be reviewed with the new procurement advice provider and any amendments brought forward upon completion of this review. While it is hoped that this can be achieved prior to the next meeting of Council, this will depend upon the Welland Partnership's capacity to assist with the review. It is anticipated that this review will recommend that the Procurement and Contract Rules incorporate the provisions of the current Statement of Required Practice for Procurement (SORP), removing the need for these to be a stand alone document.

Officer Employment Rules

- 3.20 Much of the content of these rules is statutory in nature, however it is not currently presented in a very reader friendly manner. Further, at present the Council provides for an Employment Committee, an Investigation and Disciplinary Committee, an Appeals Committee and an appointments panel. It is proposed that these rules be simplified while still meeting the statutory requirements and protections of employees and respecting councillors desire to be involved in the recruitment processes. This can be achieved by having an Employment Committee which has the power to delegate employment functions to sub-committees it creates, such as appointment or disciplinary of statutory chief officers.

Part Five – Codes and Protocols

- 3.21 This is the part of the constitution which contains the conduct and behaviour expectations of councillors and officers. It is currently in multiple sub-sections and contains duplications and inconsistencies. The proposals below are for rationalisation of the codes and protocols to those which are necessary and appropriate for the constitution. Where the code or protocol is desirable rather than integral to the constitution, it should be made available to the appropriate audience by means other than through inclusion in the constitution, such as on the website, intranet or SharePoint site.

Councillor Code of Conduct

- 3.22 The Councillor Code of Conduct is largely the model code of conduct recommended by the Local Government Association (LGA), which is why it is the only part of the constitution which will remain written in the first person. To aid understanding, the Nolan Principles of Public Life have been promoted to the start of the Code and the list of definitions expanded. It is proposed that the arrangements for investigation of a

complaint are removed from the constitution and published on the website with the complaints procedure. It is not a requirement to have the arrangements in the constitution and is unnecessary to repeat the code again in the arrangements.

Employee Code of Conduct

- 3.23 The Employee Code of Conduct forms part of the employment contract between the Council and its employees and therefore no changes can be made to this document without appropriate consultation with the recognised trade union. If further changes are required to this part of the constitution, they will be brought forward in due course.

Councillor and Officer Relations Protocol

- 3.24 This is the proposed updated Member Officer Protocol. The updates set out expectations of councillors and officers more plainly and comprehensively than previously to reduce the amount of interpretation required. It is proposed that the Public Interest Disclosure (“Whistle-blowing”) Protocol is removed from the constitution as although it is an important policy, it does not form part of the Policy Framework therefore should not be included within the constitution. Rather, it will be included on the Council’s website and intranet for ease of reference. IT is proposed the same approach is taken with the Anti-Fraud and Corruption Policy and Strategy also.

Members Planning Code of Good Practice, local code and code for Licensing Members

- 3.25 Whilst all three of these codes are important from a procedural perspective, they are not part of the policy framework and it is therefore proposed that some of the principles are absorbed within the Councillor and Officer Relations Protocol, but the substantive body of the documents be published as helpful guidance documents on the website.

Chairmans Protocol and Vice-Chairs protocol.

- 3.26 It is proposed that these two documents are combined and retained as one document within the constitution given that the role of the Vice-Chair is to deputise for the Chair of the Council.

Monitoring Officer Protocol

- 3.27 This protocol offers guidance on the statutory functions provided by the Monitoring Officer for both the Council and local councils (i.e. town and parish councils). It is proposed to be updated to aid clarity and remove duplication

Part Six – Councillors Allowance Scheme

- 3.28 Changes to the allowances paid to councillors can only be made by Council following receipt of a report from an Independent Remuneration Panel. The proposed amendments to the scheme therefore merely correct inaccuracies (e.g. the Special Responsibility Allowance percentage), remove roles that no longer exist (i.e. the Scrutiny Commissioner) and articulate statutory elements of the scheme more comprehensively.

Part Seven – Management Structure

3.29 This Part of the Constitution has been updated to reflect the current management structure, relying on the post title only, removing reference to individual names, to minimise the updates required to it. It also included statutory officer designations to aid understanding of responsibilities.

Next Steps

3.30 As set out at the beginning of this report, whilst it is appreciated that a comprehensive review of a constitution is a daunting task, it is nonetheless an important one which should not be delayed further given the risks outlined below. Councillors are reminded that the Constitution can be amended at any Council meeting, or the responsibility for undertaking the update can be delegated to the Constitutional Review Committee or an officer. Further, any amendments made to the constitution can be evaluated in practice and either reversed or changed. The outcome of the recent local government elections make it even more vital that the constitution is fit for purpose.

4. Implications of Decisions

Corporate Priorities

4.1 The Council has identified that its corporate priorities are Place and Community, Healthy Lives, Environment and Sustainability and the Economy. It has also identified critical outcomes under each priority. However, without a transparent and robust governance document underpinning its activities, the Council's ability to deliver its corporate priorities is compromised. The refresh of the constitution is therefore required to support the Council to deliver all four priorities and the critical outcomes thereunder.

Consultation

4.2 The constitution is largely prescribed by statute, however where there are choices to be made, it has consulted with the Constitutional Review Committee and the wider Council membership as set out in the body of the report. However, there has been no public consultation on the proposed changes, not is any proposed given the size of the document, the scale of the changes, and the detailed knowledge of the local government environment required to contribute meaningfully to proposed changes.

Financial

4.3 The review of the constitution has no material direct financial impact for the Council, other than the cost of officer and councillor time, though the inconsistencies in the Members Allowance Scheme could lead to incorrect allowances being paid or claimed. Failing to undertake the review in a coherent and comprehensive manner increases the risk of financial consequences for the Council as risks, contradictions and omissions will remain unaddressed, and may crystallise into financial consequences in connection with contracts and decisions.

Legal

- 4.4 The requirement for the Council to adopt “standing orders”, commonly referred to as a constitution, is contained within section 20 of the Local Government and Housing Act 1989 and supplemented by the Local Authorities (Standing Orders)(England) Regulations 2001 as amended. The proposals put forward in this report will ensure that the Council is compliant with the legislation.

Environmental Implications

- 4.5 The content of this report has no direct impact upon the Council’s ambition to achieve net zero carbon emissions as a consequence of its activities.

Risk Management

- 4.6 As set out within the report, it is apparent that there are areas of the constitution which are currently not as clear or transparent as they could be, which raises the risk profile of the Council’s activities. These risks are wide ranging as set out above, and appear throughout the constitution. They have the potential to crystallise in a number of scenarios, including in respect of contractual arrangements, decision making, enforcement, legal proceedings etc.
- 4.7 Crystallisation of risk could lead to decisions being vulnerable to successful judicial review, compromise the ability to undertake effective enforcement activity and ultimately jeopardise service delivery within the District. To date the Council has not faced a challenge to its administrative and governance arrangements however it is not advised that this lack of challenge is considered a factor that reduces the risks.
- 4.8 The risks could be substantially addressed by completing the review of the constitution and implementing robust and transparent governance processes across all aspects of the Council’s operations. Updating the constitution would not, in itself, remove all potential liabilities. It would however ensure that future risks are reduced, and historic risks are limited.

Equalities Impact

- 4.9 The Council has a statutory duty to assess and consider the impact of its activities and decision in respect of those with protected characteristics. It must demonstrate that it has had regard to its public sector equality duty when making decisions which affect people with characteristics protected from discrimination: age, disability, gender assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It is important that decision-makers are provided with all necessary information to enable them to have ‘due regard’ when making decisions.
- 4.10 The review of the constitution does not impact directly upon those with protected characteristics however it is likely that an Equality Impact Assessment will be undertaken in respect of the document as a whole once the final version is proposed to Council for debate and adoption.

Data Protection

- 4.11 The review of the constitution does not involve any personal information and therefore there are no impacts or issues relating to data protection arising from the report.

Alternative Options Considered

4.12 It is not considered appropriate for the Council to take no action in respect of the issues raised within this report given their fundamental nature. The Council can build on the in-house work done to date with a view to adopting a revised constitution in the near future. Alternatively, it could pause the review process and recommence the same at a later date, either using the current internal expertise, or by commissioning an external review to repeat the work done to date and deliver a revised constitution. However, for the reasons set out in this report, it is strongly recommended that immediate steps are taken to address vulnerabilities within the Council.

Recommendation

5.1.1 Council is invited to note:

- (a) the work undertaken by the Constitutional Review Committee to identify proposed changes to the constitution;
- (b) that the revised constitution will be presented to the next meeting of Council for decision;
- (c) that councillors are invited, before the next meeting of the Constitutional Review Committee, to contribute to the review of the constitution via a feedback template (as an online Form or as a Word document), direct contact with the Chair of the Constitution Review Committee or the Monitoring Officer, and via online questionnaires;

Background papers

6.1.1 Minutes of Council meeting from June 2022, adopting the current constitution;

6.1.2 Centre for Governance and Scrutiny report on reviewing constitutions.