



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

GOVERNANCE ETHICS AND STANDARDS COMMITTEE

20 October 2021

**Report of the Director of Legal & Democratic Services and Monitoring
Officer**

Revisions to Council Constitution

1. Purpose

- 1.1 To consider the proposed changes to the Council's Constitution set out in Appendix 2 and to refer these changes to full Council for approval.

2. Information and Analysis

- 2.1 It is a statutory duty under Section 9P of the Local Government Act 2000 for the Council to maintain and keep its Constitution up to date. A number of amendments are now required to the Constitution, the detail of which is set out in Appendix 2 to this report.
- 2.2 The amendments are required in deal with the following matters:
- 2.2.1 To cover the new operating model approved by Council on 15 September 2021 under which a Managing Director (acting as Head of Paid Service) will be appointed and to re-title the Executive Director Communities Commissioning and Policy as Executive Director Corporate Services and Transformation. (Part A, Appendix 2.)
- 2.2.2 To incorporate the delegation to the Managing Director of the responsibility to ensure that the Council's duties and obligations under

the Counter-Terrorism and Security Act 2015 are met as agreed at Cabinet on 9 September 2021. (Part A, Appendix 2.)

- 2.2.3 Subject to approval of the Whistleblowing Policy by Cabinet at its meeting on 18 November 2021, to replace references to 'Whistleblowing Confidential Reporting Code' with Whistleblowing Policy(Part B, Appendix 2).
- 2.2.4 To amend the Local Choice Functions in relation to agreements under Section 278 Highways Act 1980 and delegate the same to the Executive Director, Place to bring the delegation in line with a similar power regarding section 38 agreements and remove an unused delegation. (Part C, Appendix 2)
- 2.2.5 To clarify the delegation to the Monitoring Officer to make minor amendments and corrections to the Constitution. (Part D, Appendix 2)
- 2.2.6 To update the list of legislation providing for the authorisation of Trading Standards officers carrying out enforcement. (Part E, Appendix 2).
- 2.2.7 To amend the Petition Scheme, Call In Procedure and Financial Regulations as a result of the changes to Cabinet Member decision making procedure to bring it in line with the legislative requirements contained in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. (Part F, Appendix 2). There is no requirement in the 2012 Regulations for decisions by individual Cabinet Members to be made at a formal meeting and indeed no reference to decisions being made in this way. The new process reflects the provisions of the Regulations and enables decisions to be made outside of a formal meeting. This supports swift and efficient decision making by the Cabinet member, enabling urgent decisions to be made by individual Cabinet members rather than by officers under delegated powers. In addition, the need for officers and the Cabinet member to travel to County Hall will not be necessary, which in turn supports modern ways of working, provides carbon reduction benefits and enables resources in Democratic Services to be utilised more effectively.
- 2.2.8 To include the Terms of Reference, including the Introduction and Context, Functions and Responsibilities, Procedural Rules and Information Procedure Rules for the Vision Derbyshire Joint Committee as approved by Cabinet on 9 September 2021 (Part G, Appendix 2).

3. Alternative Options Considered

3.1 Do nothing – this option is not appropriate as the Constitution will be out of date if these changes are not adopted.

3.2 Carry out a full scale review of the Constitution. This is not appropriate currently. The proposed amendments will ensure that the Constitution is up to date.

4. Implications

4.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

5. Consultation

5.1 Not applicable.

6. Background Papers

6.1 None identified.

7. Appendices

7.1 Appendix 1 – Implications.

7.2 Appendix 2 – Proposed changes to the Council's Constitution.

8. Recommendation(s)

That the Committee agrees the proposed changes to the Council's Constitution as set out in Appendix 2 to this report and refers them to full Council for approval.

9. Reasons for Recommendation(s)

9.1 To enable the Council's Constitution to be kept up to date and reflect the legislative, operational and policy changes set out in the report.

Report Author:

Mary Fairman

Contact details:

mary.fairman@derbyshire.gov.uk

This report has been approved by the following officers:

<p>On behalf of:</p> <p>Director of Legal Services and Monitoring Officer Director of Finance and ICT Managing Executive Director Executive Director(s)</p>	
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Implications

Financial

1.1 None

Legal

2.1 The Council is required to prepare and keep up to date its Constitution as set out in Section 9P of the Local Government Act 2000 as amended.

Approval by full Council of the recommendations in this report will enable the compliance with this duty.

Human Resources

3.1 None

Information Technology

4.1 None

Equalities Impact

5.1 Not applicable

Corporate objectives and priorities for change

6.1 This report links to the Council Priority of High Performing Value for Money and Resident Focused Services. The changes proposed will enable efficient and up to date functioning of the Council as a corporate body.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

7.1 None