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## Governance Committee: Review of the Constitution

### Background: The Constitution Since 2000

- 1 As a requirement of the Local Government Act 2000, the County Council adopted its Constitution in 2000. This built on the model Constitution available from the Government, but tailored for the County Council.
- 2 The Constitution sets out how the County Council discharges its business and responsibilities, who undertakes what roles and what delegations are made from the Council to committees, individual members and to officers. It contains rules and advice to ensure that decision-making is sound and lawful. It sets out codes of expected conduct and the members' allowances scheme.
- 3 The Constitution has always been a dynamic document, subject to regular review and amendment in response to national or local change or need.
- 4 Following the elections in 2017, the Chairman and Group Leaders agreed that a full technical review of the Constitution should be undertaken, with the aim of making it a more streamlined, clear resource. This aimed to reduce duplication and review the content for clarity, need and value. The proposed changes to the Constitution should ensure that the Constitution is much clearer.

### Proposal

- 5 A revised Constitution has been prepared to fulfil the aims of the review. The document has been reduced to six sections, including a clearer introduction in Part 1. It was considered better to minimise guidance within the Constitution to improve its focus and to ensure maximum flexibility in keeping guidance relevant.
- 6 The County Council agreed at its meeting on 20 April 2018 that, as the material contained in the review of the Constitution is substantial and the changes technical, Standing Order 6(2) should be waived for these items and therefore the draft revised Constitution sections have been issued electronically and are available via the website. Hard copies are available on request. This report sets out the main changes being proposed and a summary of the overall changes **is included at Appendix 1**.
- 7 The proposed new Constitution comprises the following parts:
  - Part 1** is a summary of what is contained in the Constitution.
  - Part 2** is an introduction to the main aspects of political governance at the Council and how the Council works.
  - Part 3**, the Responsibility for Functions, explains who within the Council has powers to exercise various powers and duties. This covers the member-level areas of decision-making and sets out an officer scheme of delegation. The terms of reference (including membership and remit) for each member-level

Committee, Panel and Joint Committee are found within this section. There is an index at the start of the section.

**Part 4**, Standing Orders and other procedures, set out the rules to be followed by the Council to ensure that its decisions and actions are legal, financially sound and carried out in accordance with policy frameworks. Standing Orders sets out rules in ten sections:

1. Introduction	6. County Local Committees
2. Council	7. Non-Executive Committees
3. Decision-making and Committees general	8. Scrutiny
4. Access to meetings and documents	9. Appointment of Officers and Disciplinary Action
5. Cabinet and Executive decision-making	10. Delegations to Officers

**Part 5**, the Code of Conduct, sets out the standards of conduct that are expected of members and officers in their Council work. There is an index at the start of this section.

**Part 6**, the Members' Allowances Scheme, sets out the scheme of payment to elected members.

- 8** An aim of the review was to avoid making any material changes to existing political governance arrangements or delegations. This has been done, but several matters of substance are raised below. It is recommended that the changes set out below are made as part of the review:
- (a) **County Local Committees** – to add the make-up of the committees to their terms of reference in Part 3.
  - (b) **Member Development Group** – change to the constitution of the MDG following the recent removal of 'Member Support' from the Safer, Stronger Communities portfolio, so that the Cabinet Member appointed to the MDG can be any chosen by the Leader.
  - (c) **Corporate Parenting Panel** – to allocate non-voting co-opted membership to the Designated Nurse (NHS). This is at the request of the Cabinet Member for Children and Young People, and with the agreement of the Chairman of the Corporate Parenting Panel.
  - (d) **Start of Life Partnership Board** – this is to be abolished, so references will be removed. This is with the agreement of the Cabinet Member for Children and Young People. The activities of the Start of Life Partnership Board will be subsumed within the Health and Wellbeing Board, following discussions with the Cabinet Member for Adults and Health, who chairs the Health and Wellbeing Board.

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- (e) **Pensions Panel** – to update the terms of reference to reflect the addition of the ACCESS Joint Committee in the governance structure of the Pension Fund.
  - (f) **Pension Advisory Board** – to increase membership from five to seven, comprising of three employer representatives, three member representatives and one independent Chairman. Increase the number of meetings a year from three to four.
  - (g) **Fire Pension Advisory Board** – this is not currently referenced in the Constitution, unlike the Local Government Pension Advisory Board. It is proposed to correct this omission by including terms of reference for the Board in Part 3.
  - (h) **Election of Chairman** – to change the wording of Standing Orders to reflect current practice that a secret ballot *may* be held rather than *will* be held.
  - (i) **Vice-Chairman of Governance Committee** – to formalise the long-standing convention that this role will be an ex officio role for the County Vice-Chairman.
  - (j) **Select Committee portfolio change** – to move 'Coroner and Mortuaries' from the Environment, Communities and Fire Select Committee to the Health and Adult Social Care Select Committee, to bring them into line with a recent Cabinet portfolio change.
  - (k) **Financial Regulations and Procedures** – in line with good practice the Financial Regulations and Financial Procedures are currently being reviewed by the Regulation, Audit and Accounts Committee. The Financial Procedures set out the controls in place for the key areas covered in the Financial Regulations, along with the responsibilities of the Directors in respect of each the key areas. It is proposed that the Treasury Management Policy Statement, which is currently part of the Financial Regulations, and the Financial Procedures, should be held outside of the Constitution.

**9** The Standards Committee has reviewed the proposed changes to Part 5 of the Constitution, the Codes of Conduct, in accordance with the rules of the Constitution and these are included elsewhere on the agenda.

### **Consultation**

**10** The Chairman and Group Leaders agreed the scope for the review and have been kept informed as to its progress. The Group Leaders nominated Mr Burrett and Mr Mitchell to review the proposed changes in more detail, to give assurance that the review had made the Constitution clearer and that nothing of substance had changed or been removed.

**11** Start of Life Partnership Board members have been consulted on proposals to abolish this Board and for its activities to be subsumed within the Health and Wellbeing Board. No concerns regarding this approach have been raised.

**Recommended**

- (1) That the proposed changes to governance arrangements set out in paragraph 8 be approved;
- (2) That the revised the Constitution be approved; and
- (3) The Director of Law and Assurance be authorised to make any minor consequential changes to the Constitution arising from the review.

**Lionel Barnard**

Chairman of the Governance Committee

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**Background Papers**

None

### Log of Proposed Changes

Section of Constitution	Change
Each main section 'header' page	<ul style="list-style-type: none"> <li>To have short explanation of the contents/ what it is for.</li> </ul>
<b>Part 1</b> – Summary and Explanation	<ul style="list-style-type: none"> <li>Part 1 is significantly shortened, providing a brief introduction to the Council and to the main layout of the Constitution.</li> <li>Some elements of the current Part 1 have been put into Part 2.</li> <li>Definitions are included and these will also provide index references in the final version.</li> </ul>
<b>Part 2</b> – Description of the Constitution	<ul style="list-style-type: none"> <li>Becomes much shorter (10 pages): removing all duplication; becomes a succinct outline of what the Constitution is for; very broad outline of contents. Some elements of Part 2 to go in Part 3 (e.g. functions of Council, schedule of cabinet members, areas of responsibility of select committees).</li> </ul>
<b>Part 3</b> – Responsibility for Functions	<ul style="list-style-type: none"> <li>Remains: Minor editing. Various sections are being moved into this document from Part 2, as mentioned above. Quorum has been added to the terms of reference of each committee. The Start of Life Partnership Board is removed. The Fire Service Pension Advisory Board is added. Changes to the terms of reference of the Pension Advisory Board and the Pensions Panel. Change to constitution of the Member Development Group. Addition of the make-up of County Local Committees. Moving 'Coroner and Mortuaries' scrutiny from Environment, Communities and Fire Select Committee to Health and Adult Social Care Select Committee to reflect a recent change in Cabinet portfolios.</li> </ul>
<b>Part 4</b> – Rules of the Constitution	<ul style="list-style-type: none"> <li>To be renamed 'Standing Orders (Rules and Procedures)' and themed, with sub-sections.</li> </ul>
<ul style="list-style-type: none"> <li>Section 1: Standing Orders</li> </ul>	<ul style="list-style-type: none"> <li>Remains, but rewritten to make this easier to use, less technical language.</li> <li>Themed section headings introduced:               <ol style="list-style-type: none"> <li>Introduction</li> <li>Council</li> <li>Decision-making and Committees General</li> <li>Access to meetings and documents</li> <li>Cabinet and Executive Decision-making</li> <li>County Local Committees</li> <li>Non-Executive Committees</li> <li>Scrutiny</li> <li>Appointment of Officers and disciplinary action</li> <li>Delegations to officers.</li> </ol> </li> </ul>

Section of Constitution	Change
	<ul style="list-style-type: none"> <li>Aim to reduce number of cross-references. Some sections currently in other parts of the Constitution have been merged into this document (the Decision-Making Protocol, County Local Committee Protocol, Select Committee Protocol, Petitions Scheme and Part 7, Access to information, as well as excerpts from Part 8.</li> </ul>
<ul style="list-style-type: none"> <li>Section 2: Protocol on Decision Making</li> </ul>	<ul style="list-style-type: none"> <li>Moved: text reviewed and revised and relevant sections incorporated either within Standing Orders and Scheme of Delegation. Other relevant information to be incorporated as supporting guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 2A: Protocol on County Local Committees</li> </ul>	<ul style="list-style-type: none"> <li>Moved: text reviewed and revised and relevant sections incorporated either within Standing Orders or Scheme of Delegation. Other relevant information to be incorporated as supporting guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 3: Protocol on Select Committees</li> </ul>	<ul style="list-style-type: none"> <li>Moved: text reviewed and revised and relevant sections incorporated either within Standing Orders or Scheme of Delegation. Other relevant information to be incorporated as supporting guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 3A: Protocol on Joint Scrutiny</li> </ul>	<ul style="list-style-type: none"> <li>Moved: text reviewed and revised and relevant sections incorporated either within Standing Orders or Scheme of Delegation (as appropriate). Other relevant information to be incorporated as supporting guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 4 (Risk Management)</li> </ul>	<ul style="list-style-type: none"> <li>Remains: no changes planned.</li> </ul>
<ul style="list-style-type: none"> <li>Sections 5 (Financial Regulations) and 5A (Financial Procedures)</li> </ul>	<ul style="list-style-type: none"> <li>Being reviewed by Regulation, Audit and Accounts Committee for approval at end of July. Proposed that the Treasury Management Policy Statement, which is currently part of the Financial Regulations, and the Financial Procedures, should be held outside of the Constitution.</li> </ul>
<ul style="list-style-type: none"> <li>Section 6 (Standing Orders on Procurement and Contracts)</li> </ul>	<ul style="list-style-type: none"> <li>Remains: no changes planned.</li> </ul>
<ul style="list-style-type: none"> <li>Section 7 (Petitions Scheme)</li> </ul>	<ul style="list-style-type: none"> <li>To be included as a shorter version in Section 1. Other relevant information to be incorporated as supporting guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Sections 8 (General Protocol with Borough and District Councils) and 9 (Statement of partnership with local councils)</li> </ul>	<ul style="list-style-type: none"> <li>To be included as shorter section in Part 2, with separate document on Website setting out protocol.</li> </ul>

Section of Constitution	Change
<b>Part 5 – Code of Conduct</b>	
<ul style="list-style-type: none"> <li>Section 1: Code of Conduct</li> </ul>	<ul style="list-style-type: none"> <li>Retained, with inclusion of sections below and a section from Standing Orders.</li> </ul>
<ul style="list-style-type: none"> <li>Sections 2 (Members’ Disciplinary Arrangements), 4 (Guidance for Members on Hospitality and Gifts) and 5 (Protocol for use of IT Equipment and Facilities)</li> </ul>	<ul style="list-style-type: none"> <li>Shortened and moved into section 1 (i.e. main Code of Conduct)</li> </ul>
<ul style="list-style-type: none"> <li>Sections 3 Code of Practice on Probity in Planning and Protocol on Public Participation at Planning and Rights of Way Committees) and 6 (Protocol on Relationships between Members and Officers)</li> </ul>	<ul style="list-style-type: none"> <li>Retained as stand-alone sections. Section 3 unchanged. Section 6 now includes some information from Part 8 (Corporate Advice Notes).</li> </ul>
<ul style="list-style-type: none"> <li>Section 7 (Code of Practice on Publicity)</li> </ul>	<ul style="list-style-type: none"> <li>Remains unchanged.</li> </ul>
<ul style="list-style-type: none"> <li>Sections 8 – 13 (listed below): <ul style="list-style-type: none"> <li>Section 8: Guidance on Human Rights Act: corporate policy</li> <li>Section 9: Guidance on Propriety and Official Conduct for Officers: HR policy</li> <li>Section 10: Anti-Fraud and Corruption Strategy: corporate policy</li> <li>Section 11: Anti Bribery Policy and Procedures: corporate policy</li> <li>Section 12: Confidential Reporting Policy: HR policy</li> <li>Section 13: Equality of Opportunity Value Statement and Policy: corporate policy : corporate policy</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Some of these are HR policies so can be taken out of the Constitution and merged with HR policy documentation separately available. Others are Corporate Policies that need to have separate place to be available separately – along with other policies not listed here (e.g. Crime &amp; Disorder, Sustainability, Social Value Act, Human Rights, Equalities).</li> </ul> <p>The Standards Committee is recommending that changes to staff standards and conduct documents should in future be delegated to officers.</p>
<b>Part 6 – Members’ Allowances Scheme</b>	Retained: no editing required apart from changes recommended by the Independent Remuneration Panel included as a separate item on the agenda.
<b>Part 7 – Access to Information Procedure Rules</b>	To be incorporated into Part 4 Section 1 (Standing Orders) and duplication removed.

<b>Section of Constitution</b>	<b>Change</b>
<b>Part 8</b> – Corporate Advice Notes	Removed as a whole, but some elements incorporated into Parts 3, 4 and 5. Other sections to be retained as separate guidance.
<ul style="list-style-type: none"> <li>Section 1 (Briefing Members for Public Occasions)</li> </ul>	<ul style="list-style-type: none"> <li>Some elements included in Code of Conduct, Part 5, duplication removed.</li> </ul>
<ul style="list-style-type: none"> <li>Section 2 (Question Time)</li> </ul>	<ul style="list-style-type: none"> <li>Some elements included in Part 4, Section 1, the rest to be retained as separate guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 3 (Members’ Statements of Opinion in the Community)</li> </ul>	<ul style="list-style-type: none"> <li>Moved to Code of Conduct, Part 5, duplication removed.</li> </ul>
<ul style="list-style-type: none"> <li>Section 4 (Non-Executive Committees – Pre-agenda Meetings)</li> </ul>	<ul style="list-style-type: none"> <li>Removed from Constitution but retained as separate guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 5 (Principles governing the calendar of meetings)</li> </ul>	<ul style="list-style-type: none"> <li>Removed from Constitution but retained as separate guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 6 (Protocol for items being referred to Cabinet)</li> </ul>	<ul style="list-style-type: none"> <li>Some elements included in Part 4, Section 1, the rest to be retained as separate guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 7 (Protocol for Local Member Notification)</li> </ul>	<ul style="list-style-type: none"> <li>Relevant elements moved to Code of Conduct, Part 5, duplication removed.</li> </ul>
<ul style="list-style-type: none"> <li>Section 8 (Protocol on officer attendance at group meetings)</li> </ul>	<ul style="list-style-type: none"> <li>Relevant elements moved to Code of Conduct, Part 5, duplication removed.</li> </ul>
<ul style="list-style-type: none"> <li>Section 9 (Protocol on use of the Council Chamber and Committee Rooms at County Hall)</li> </ul>	<ul style="list-style-type: none"> <li>Removed from Constitution but retained as separate guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 10 (Member Job Descriptions)</li> </ul>	<ul style="list-style-type: none"> <li>Some of the detail on Chairman and Vice-Chairman included in Part 2, but most removed from Constitution but retained as separate guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 11 (Exec and Scrutiny TFGs)</li> </ul>	<ul style="list-style-type: none"> <li>Removed from Constitution but retained as separate guidance.</li> </ul>
<ul style="list-style-type: none"> <li>Section 12 (Advisers and Senior Advisers to Cab Members)</li> </ul>	<ul style="list-style-type: none"> <li>Included in Part 3, Responsibility for Functions.</li> </ul>
<ul style="list-style-type: none"> <li>Section 13 (Appointments to Outside Bodies)</li> </ul>	<ul style="list-style-type: none"> <li>Included in Part 4 Section 1 (Standing Orders).</li> </ul>
<ul style="list-style-type: none"> <li>Section 14 (Protocol for webcasting)</li> </ul>	<ul style="list-style-type: none"> <li>Included in Part 4 Section 1 (Standing Orders).</li> </ul>
<ul style="list-style-type: none"> <li>Section 15 (Councillor Call for Action flowchart)</li> </ul>	<ul style="list-style-type: none"> <li>Reference included in Part 4, Section 1 (Standing Orders) but most removed from Constitution but retained as separate guidance.</li> </ul>