

Report to Council

13 December 2022

Subject:	Governance Review – Proposed Changes to the Council’s Constitution – Phase 3
Director:	Surjit Tour Director of Law and Governance & Monitoring Officer
Contact Officer:	Elaine Newsome Service Manager – Democracy

1 Recommendations

1.1 That approval be given to the proposed revisions to the constitution including:

- Articles 1 to 5, 8 to 12
- Part 4 Financial Procedure Rules
- Part 4 Budget and Policy Framework

1.2 That, subject to the approval of the above recommendations, the Director of Law & Governance/Monitoring Officer, be authorised to make all necessary consequential changes to the Constitution to give effect to the approved changes.





2 Reasons for Recommendations

2.1 The Council commenced a review of the Council’s governance arrangements following the Grant Thornton Governance Review, LGA Corporate Peer Review and CIPFA Review. These reviews identified a number of key governance issues that need to be addressed.



- 2.2 The reviews specifically identified the requirement to address underlying constitutional and procedural deficiencies that directly and indirectly undermine or hinder the Council’s governance arrangements, decision making ability and key working relationships.
- 2.3 An Officer Governance Review Project Team has been established to help coordinate and oversee the delivery of the Governance Review. Support has also been provided by the Local Government Association, Centre for Governance and Scrutiny, Chartered Institute of Public Finance and Accountancy and the Commissioners.
- 2.4 The Governance and Constitution Review Committee, on 27 May 2022, established a cross-party Member Working Group to oversee the process for and coordination of constitution revisions and proposals. The Working Group considered the proposed changes to the Constitution at meetings on 17th November 2022 and approved them for wider consultation with elected Members during November and December.
- 2.5 The changes to the Constitution proposed in this report have been recommended by the cross-party Member Working Group. In order for any of the changes to take effect Full Council approval is required.
- 2.6 Demonstrating progress in respect of the Governance Review is a key area of focus for the Secretary of State and ensuring necessary changes to the Council’s Constitution are delivered at pace considered critical to the Council’s improvement.

3 How does this deliver objectives of the Corporate Plan?

	An effective governance framework supports delivery of all the objectives within the Corporate Plan.
	Best start in life for children and young people People live well and age well
	Strong resilient communities Quality homes in thriving neighbourhoods
	A strong and inclusive economy A connected and accessible Sandwell





4 Context and Key Issues

BACKGROUND

- 4.1 Earlier this year, the Council commenced a review of its governance arrangements following the Grant Thornton Governance Review, LGA Corporate Peer Review and CIPFA Review. These reviews identified a number of key governance issues that required consideration and refresh.
- 4.2 The review also identified a need to address underlying cultural and behaviour issues that directly and indirectly undermined the Council's governance arrangements, decision-making ability and key relationships.
- 4.3 An Officer Governance Project Team has been established to help coordinate and oversee the delivery of the Governance Review. Support has also been provided by the Local Government Association, Centre for Governance and Scrutiny, Chartered Institute of Public Finance and Accountancy and the Commissioners.
- 4.4 The Governance and Constitution Review Committee has met and established a cross-party Member Working Group consisting of 10 members – namely, all the members of the Committee and two additional Conservative Group members. The Working Group has considered a series of draft constitution proposals and worked with other Committees and Boards/Groups to ensure proposed change are joined up, for example, any development and training needs are being fed into the Member Development Programme as training and development needs are identified.



KEY AREAS OF FOCUS

- 4.5 The Governance Review is refreshing the Council's decision-making mechanisms and updating the constitutional arrangements to enable: the achievement of the Council's strategic direction and ambition, in particular:
- efficient and effective decision-making;
 - a more open, transparent and accountable Council;
 - greater engagement with residents, communities and stakeholders in relation to democratic functions;
 - more effective support to Elected Members to enable them to be confident and successful in their various roles;
 - corporate governance documentation, policies and procedures to be updated and revised so that they are consistent with national guidance, align to best practice and are fit for purpose;
 - strong and healthy relationships between Elected Members and Officers.
- 4.6 The Governance Review will review all elements of the Council's Constitution, the timetable for which is set out below:

Timetable

Phase 1 of the review concluded in July 2022 with Council approval of the revised Key Decision Thresholds, Contract and Procurement Procedures and the Sale of Land & Buildings Protocol.

Phase 2 of the review concluded in November 2022, with Council approval of the Scheme of Delegation to Officers, Council Procedure Rules, Executive Procedure Rules, Access to Information Rules, Officer Employment Procedure Rules, Protocol Member and Employee Relations and the Officers' Code of Conduct. In addition, Council approved the introduction of public questions at Council meetings, in line with the objective of wider public participation in democratic functions.



Phase 3 proposals are presented for consideration by Council. These include a series of changes to the following elements of the Constitution:

- Articles 1 to 5 and 8 to 12
- Financial Regulations
- Budget & Policy Framework

Articles of the Constitution

4.7 The Articles provide an overview or snapshot of other more detailed parts of the Constitution. They establish:

- the roles and responsibilities of Members, including the Mayor
- the role of Officers,
- the rights of citizens,
- an overview the Councils decision making structure including joint or partner working arrangements
- how the constitution should be used and how may be changed

4.8 The majority of the articles have been subject to a light touch administrative review to capture changes arising from phases 1&2 of the Constitution review or have been updated to reflect current arrangements. These are attached at appendix 1. Articles 2 (Councillor Call for Action) and 6 (Scrutiny Boards) will be reviewed during the next phase of scrutiny review activity.

Financial Regulations

4.9 The Councils Financial Regulations establish the collective and individual responsibilities of Members and Officers in relation to the effective and lawful management of the Councils financial resources.

The current financial regulations have been reviewed and updated to reflect current arrangements for collective and individual cabinet member decisions. Additional changes include:

- strengthening and clarity around the prevention of fraud and corruption;



- arrangements for the management of external funding including grants.

4.10 The proposed revised Financial Regulations are attached at Appendix 2.

4.11 The proposed changes have influenced respective minor administrative changes to Article 4 relating to the Budget and Policy Framework which have been amended to reflect proposals.

Part 4 - The Budget & Policy Framework

4.12 The Budget & Policy Framework establishes the decision making routes for key corporate policies and strategies and the Councils annual budget. These arrangements are in line with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, that establishes those functions reserved for decision by Full Council (or a committee of the Council), shared responsibility between the Executive and Full Council and discretionary, or “local choice” functions where Full Council is able to determine whether they should rest with the Executive or another decision making body.

4.13 Most functions of the Council have been long established in legislation as Executive functions that are determined by Cabinet, with some notable exceptions. These include setting of the annual budget, including setting the council tax and the approval of core strategies and plans. The Budget & Policy Framework outlines these alongside additional policies that Council has reserved for approval under “local choice” arrangements.

4.14 Whilst no significant changes are proposed, a number of administrative changes have been identified alongside quality checks to ensure that strategy and policy titles remain accurate.



5 Implications

Resources:	<p>There are no direct resources implications arising from this report. However, the changes proposed enables more effective decision making, greater financial oversight and management. The changes ensure greater clarity around obligations, approach and expectations which are essential to promote and embed good governance.</p>
Legal and Governance:	<p>The proposals will enable high standards of decision making across the authority and addresses the recommendations contained within the Council's Improvement Plan.</p> <p>The council must ensure good governance underpins its decision making which needs to be informed and timely. The proposed changes seek to achieve this whilst striking a balance between the necessary safeguards necessary tom provide assurance to the Council.</p> <p>Any constitutional changes require Full Council approval.</p>
Risk:	<p>The proposed changes will reduce the Council risk of challenge as more informed and effective decision making will be achieved. Mitigation of risks associated with decision making is essential and protects the council from avoidable challenge and reputational harm.</p>
Equality:	<p>There are no direct equality implications arising from this report save that all decision making needs to be compliant with the Equality Act 2010 and the public sector equality duty. All decisions must therefore consider relevant equality, diversity and inclusion implications.</p>
Health and Wellbeing:	<p>There are no direct implications for health and wellbeing from this report.</p>



Social Value	The changes proposed to the Contract and Procurement Rules promote and emphasise the need to ensure social value is properly considered and encouraged wherever possible.
Climate Change	The proposals will not have a detrimental impact on climate change. However, a fit for purpose Constitution will play an important role to ensure the council drives and delivers upon its climate change objectives and targets.

6 Appendices

1. Appendix 1 Articles of the Constitution
2. Appendix 2 Financial Regulations

7. Background Papers

Constitutions of Salford City Council, Manchester City Council, Brent LBC, Birmingham City Council, Durham County Council, Nuneaton and Bedworth Borough Council, Gateshead Metropolitan Borough Council, Nottinghamshire County Council, Hertfordshire County Council, Liverpool City Council.

