

Havant Borough Council – Constitution Review Statutory Compliance Checklist

This compliance checklist sets out the statutory requirements for what must appear (somewhere) in a local authority constitution. It is a useful check to identify any missing areas and also a quick reference point for finding statutory information in the document. It will need to be updated if the format of the Constitution is changed.

Conclusion

Havant Borough Council's Constitution is broadly compliant and contains the core information required by the statutory provisions. There are a few areas which need to be reviewed and addressed to ensure full compliance and to update references in relation to

- Statutory references
- Access to Information Procedure Rules
- Councillor's Allowances Scheme
- The rights of inhabitants of the authority's area and more specifically public speaking at meetings and petitions
- Shared services/joint arrangements
- Personnel/Staffing Committee arrangements
- Audit arrangements including rights to inspect

We suggest these are addressed as the new Constitution is developed and finalised

STATUTORY REQUIREMENTS

1 THE LOCAL GOVERNMENT ACT 2000 (CONSTITUTIONS) (ENGLAND) DIRECTION 2000

The Secretary of State for the Environment, Transport and the Regions, in the exercise of his powers under sections 37(1)(a) (now s.9P) and 48(7) (now s.9R) of the Local Government Act 2000 (c.22) (the Act) and all other powers enabling him in that behalf, hereby directs all local authorities in England to which Part II of the Act applies as follows:

Miscellaneous and interpretation

In the direction:

"constitution" has the meaning given by section 37(1) (now 9P) of the Act,

"overview and scrutiny committee" ...in the case of a local authority which is operating executive arrangements has the meaning given by section 21(1) (now s.9F(1)) of the Act

In complying with this direction a local authority must have regard to any guidance issued for the time being by the Secretary of State under section 38 (now s.9Q) of the Act.

The Constitution.

The constitution prepared and kept up to date in accordance with section 37(1) (now s.9P) of the Act by a local authority which is operating executive arrangements or, as the case may be, alternative arrangements must include:

	Requirement of Direction	Council's Constitution	Comment
a	a summary and explanation of the purpose and content of the constitution;	Contents Part 1	We note that the Contents page provides a useful overall picture of the composition of the Constitution. The Memorandum of the Council's Constitution provides basic information about the Council but it could provide more information in a user friendly manner, on how the Council operates and how decisions are made and/or link to the Council's website pages.
b	a description of the composition of the council, the scheme of ordinary elections for members of the council and their terms of office;	Part 1 Part 2 – Article 1	It would be helpful to have a hyperlink to the actual composition of the Council, to general members/elections pages on the Council's website to make it easier to keep up to date after elections and by-elections.
c	a description of the principal roles and functions of the members of the council under executive arrangements or, as the case may be, alternative arrangements including the rights and duties of those members;	Part 2 – Articles 3-7 and 13 Part 3 – Introduction, Sections B (Executive Functions), F (Access to Information Standing Orders), G (Budget & Policy Framework Standing Orders), H (Cabinet Standing Orders) Part 4	Part 3 section B provides a description of Executive Arrangements and Part 3 Section D for Officers. As a whole the Constitution meets the requirements of the Regulations. However, we note that the information is diffuse within the Constitution, and would benefit from consolidation and more effective cross referencing. We note that there is no definition of 'key decision' in so far as there is no indication of what would constitute significant expenditure or savings. We would recommend that this is clarified, together with a position taken on how key decisions are to be determined.

	Requirement of Direction	Council's Constitution	Comment
d	the scheme of allowances for members of the authority drawn up in accordance with regulations made under section 18 of the Local Government and Housing Act 1989 (c.42);	Part 5	The scheme was adopted in March 2016. The Local Authorities (Members' Allowances) (England) Regulations 2003 (SI 2003/1021) require a scheme to be adopted each year by 31 March of the year preceding that to which the scheme will apply, and the scheme will need to be amended to reflect that. The reference to four years in these regulations is to the IRP reviewing its recommendations no more than every four years.
e	a description of the rights and responsibilities of inhabitants of the authority's area including: <ul style="list-style-type: none"> i. their rights to vote in elections for the return of members of the authority; ii. their rights to access to information about the authority's activities; iii. their rights of access to meetings of the council, its committees and sub-committees and any joint committees established with any other authority; and iv. their rights of access to meetings of the executive and committees of the executive, 	Part 2 – Article 2 Part 3 – Section E (Council Standing Orders) Part 3 – Section F (Access to Information Standing Orders) Part 3 – Section H (Cabinet Standing Orders) Part 3 – Section L (public speaking Appendices)	A protocol or Guidance note for the public on accessing meetings would be useful to summarise their rights or give more information in a revised Summary and Explanation rather than having a number of sets of information about different public speaking requirements including e.g. in the various Standing Orders relating to different Committees as Appendices etc. The rules around public questions and deputations are not comprehensive and would benefit from more prescription to include the total amount of time to be allotted at a meeting to questions/deputations. Equally the rules around the receipt of petitions should be clarified, including for e.g. must be related to Council functions or matters affecting the area; not be substantially the same as a question, motion or deputation which has been put at a meeting of the Council in the past six months etc.
f	a description of the roles of the authority itself under executive arrangements (or, as the case may be, alternative arrangements) including: <ul style="list-style-type: none"> i. the functions which may be exercised only by the authority itself or which may to some extent be exercised only by the authority itself (including, in the case of a local authority operating executive arrangements any plans and strategies which are subject to approval or 	Part 2 – Articles 3, 5 & 6, 11 Part 3 – Introduction, Sections A (Local Choice Functions), B (Executive Functions), C (Non-Executive Functions), D (Scheme of Delegation to Officers), E (Council Standing Orders), F (Access to Information Standing Orders), G (Budget and Policy Framework Standing Orders) , I	There could be reference to policies that the Council must approve such as the Pay Policy Statement alongside the Policy Framework set out in Part 2 Article 3.2 (which could be located elsewhere in a new constitution). Part 3 Section A Local Choice Functions could be clearer as to the respective roles and delegation of powers between members and officers – also regarding obtaining of information under section 330 of the Town and Country Planning Act 1990/section 16 Local Government

	Requirement of Direction	Council's Constitution	Comment
	<p>adoption by the authority itself by virtue of regulation 5 of, and paragraph 1 of Schedule 4 to, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (S.I. 2000/2853)); and</p> <p>ii. any rules governing the conduct and proceedings of meetings of the authority itself whether specified in the authority's standing orders or otherwise;</p>	(Overview and Scrutiny Standing Orders)	<p>(Miscellaneous Provisions) Act 1976 as to persons with interests in land and making agreements with other local authorities for the placing of staff at the disposal of those other authorities under section 113 LGA 1972.</p> <p>We advise that it would be preferable to have the non-executive functions clearly set out in a single dedicated section, setting out the functions of the Council and its committees.</p> <p>The Officer Scheme of Delegation is complex and difficult to navigate. It could be simplified by providing more general delegations and making reference to the matters reserved to members, particularly any financial limits (we have seen financial limits relating to virement but page 86 references sale/disposal and acquisition of land up to "agreed values").</p>
g	a description of the roles and functions of the chairman of the council (including a chairman entitled to the style of mayor);	Part 2 – Article 4 Part 3 Section E – Council Standing Orders	Article 4 contains useful information which we recommend is moved to the Summary and Explanation.
h	a description of the functions of the local authority executive which, for the time being, are exercisable by individual members of the local authority executive stating as respects each function, the name of the member by whom it is exercisable;	Part 2 – Article 7 Part 3, Section B	Portfolios are listed in Part 3, Section B page 83 onwards
i	a description of the functions of the local authority executive which, for the time being, are exercisable by the executive collectively or a committee of the executive, stating as respects each function, the membership of the body by who it is exercisable;	Part 2 – Article 7 Part 3 – Section B (Cabinet Standing Orders) Part 3 – Section F (Access to Information Standing Orders) Part 3 – Section H (Cabinet Standing Orders)	<p>Note – there are no standing cabinet committees</p> <p>Would it be useful to mention the ability to create advisory only/committees of the Cabinet?</p>
j	a description of those powers of the executive which for the time being are exercisable by an officer of the local authority stating the title of the officer by whom each of the powers so specified is for the time being exercisable,	Part 2 - Article 9 Officers Part 2 – Article 10– Finance, Contracts and Legal matters Part 3 – Section A Local Choice	The Scheme of Delegation is complex. It could be simplified by providing more general delegations not lists of legislation, many of which are out of date and making reference to the matters reserved to members. It would benefit from an

	Requirement of Direction	Council's Constitution	Comment
	other than any power exercisable by the officer for a specified period not exceeding six months;	Functions Part 3 – Section D Scheme of Delegation to Officers	introduction setting out the parameters of officer powers. It would also benefit from having the delegations in one place rather than included in both the Scheme of Delegation and also the terms of reference of committees (e.g. Article 5). We recommend that references to specific legislation are removed as they create a need for regular updating. We would also recommend having a separate section for proper officer functions.
k	a description of the arrangements for the operation of overview and scrutiny committees including i. the terms of reference and membership of those committees and any rules governing the exercise of their functions; and ii. any rules governing the conduct and proceedings of meetings of those committees whether specified in the authority's standing orders or otherwise'	Part 2 – Article 6 Part 3 – Section F Access to Information Standing Orders Part 3 – Section G Budget and Policy Framework Standing Orders Part 3 – Section I Scrutiny Standing Orders	There are various references to call-in, in the Constitution, meaning that the scope and application of call-in is not clear. All executive decisions are potentially capable of call-in under section 9F LGA 2000 and this could be set out more clearly in the constitution.
l	in the case of a local authority which is operating executive arrangements, a description of the roles of the executive, committees of the executive and members of the executive including: i. the roles, functions, rights, responsibilities and duties of members of the executive; ii. in the case of a local authority which is operating executive arrangements which include a leader and cabinet form of executive, any rules governing the election of the executive leader; iii. any rules governing the appointment of members of the executive; iv. any provisions in the local authority's executive arrangements with respect to the quorum, proceedings and location of meetings of the executive; v. any provisions in the local authority's executive arrangements with respect to the appointment of committees of the executive; and	Part 2 – Articles 3 & 7 Part 3 – Section B Executive Functions Part 3 – Section E Council Standing Orders Part 3 – Section F Access to Information Standing Orders Part 3 – Section H Cabinet Standing Orders Part	The Leader is elected by simple majority of Full Council for a four year term. The references to 'appointing' the Leader should be replaced to reflect "election". Reference to suspension of a Cabinet member under Part III of the LGA 2000 in Article 7 should be removed as it has been repealed.

	Requirement of Direction	Council's Constitution	Comment
	vi. N/A (Mayor and Council Manager option – now repealed)		
m	N/A (Mayor and Council Manager option – now repealed)	N/A	
n	a description of the roles of any committees or sub-committees appointed by the authority in accordance with section 101 of the Local Government Act 1972 (c.70) including: i. the membership, terms of reference and functions of such committees or sub-committees; and ii. any rules governing the conduct and proceedings of meetings of those committees or sub-committees whether specified in the authority's standing orders or otherwise	Part 2 – Article 5 Part 3, sections (C), (E), (F), (G), (I)	The responsibilities of Committees would benefit from being in one place.
o	a description of those powers of the council which for the time being are exercisable by an officer of the local authority stating the title of the officer by whom each of the powers so specified is for the time being exercisable, other than any power exercisable by the officer for a specified period not exceeding six months;	Part 2 – Article 5 Non Executive Functions Part 2 - Article 9 Officers Part 2 – Article 11 Finance, Contracts and Legal matters Part 2 – Article 12 Review and Revision of the Constitution Part 3 – Section D Scheme of Delegation to Officers	The Officer responsibilities would benefit from being in one place.
p	a description of the roles of the local authority's Standards Committee and any parish council sub-committee of the Standards Committee appointed in accordance with sections 53 or 55 of the Act including: i. the membership, terms of reference and functions of that committee or sub-committee; and ii. any rules governing the conduct and proceedings of meetings of that committee or sub-committee whether specified in the authority's standing orders or otherwise;	Part 2 – Article 5 Governance, Audit and Finance Committee – may appoint Sub-Committees and Panels	The Council's decision-making bodies are included, not the arrangements required under s28 Localism Act 2011.
q	a description of the roles of any area committees appointed by the authority to exercise functions in accordance with regulations 16A of the Local Government (Committees and Political Groups) Regulations 1990 (SI 1990/1553) or, as the case may be,		The Council does not appear to have any area committees. The Constitution should specifically state that this is the case

	Requirement of Direction	Council's Constitution	Comment
	<p>section 18 of the Act and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (SI 2000/2851) [now 2012 Regulations] including:</p> <p>i. the membership, terms of reference and functions of such committees; and</p> <p>ii. any rules governing the conduct and proceedings of meetings of those committees whether specified in the authority's standing orders or otherwise</p>		
r	<p>a description of any joint arrangements made with any other local authorities under section 101(5) of the Local Government Act 1972 including:</p> <p>i. the terms of those arrangements;</p> <p>ii. the membership, terms of reference and functions of any joint committees established under those arrangements; and</p> <p>iii. any rules governing the conduct and proceedings of meetings of those joint committees whether specified in the authority's standing orders or otherwise</p>	<p>Part 2 – Article 5 Joint Human Resources Committee</p> <p>Part 2 – Article 8 Joint Arrangements</p> <p>Part 3 – Section B and E Council Standing Orders</p>	<p>According to Article 8, the Council has several joint committees (East Hampshire District Council and Havant Borough Council Joint Human Resources Committee; 5 Councils Joint Scrutiny Committee (which may have been wound up); the Parking and Traffic Regulations Outside London Adjudication Joint Committee (PATROLAJC)); and West of Waterlooville MDA Joint Planning Committee with Winchester City Council, however other than this initial reference, the constitution only then deals with the Joint Human Resources Committee and West of Waterlooville MDA Joint Planning Committee. It is not clear which procedure rules apply to the other joint committees. The Procedure Rules and other arrangements should be included in the Constitution or ideally hyper-linked</p>
s	<p>a description of any arrangements made with another local authority for the discharge of functions by that other local authority or the executive of that other local authority in accordance with section 101(1)(b) of the Local Government Act 1972 or, as the case may be, Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 –[now 2012 Regulations];</p>	<p>Part 2 – Article 8 Joint Arrangements</p> <p>Part 3 – Section B</p>	<p>5 Councils Joint Committee and Client Relationship Director;</p> <p>Coastal Partnership?</p> <p>Hampshire Broadband Partnership?</p> <p>See also comment above</p>
t	<p>a description of the roles of officers of the local authority including:</p> <p>i. the management structure for officers of the authority;</p> <p>ii. any arrangements made under section 101 of the Local Government Act 1972 or, as the case may be, section 14,</p>	<p>Part 2 – Article 5 Non Executive Functions</p> <p>Part 2 - Article 9 Officers</p> <p>Part 2 – Article 11 Finance, Contracts and Legal matters</p>	<p>We note that the Council's full Management Structure is not reflected in the Constitution. We recommend that this is hyperlinked to the maintained version on the Council's website.</p>

	Requirement of Direction	Council's Constitution	Comment
	15 or 16 of the 2000 Act [now 9EA and 9EB] for the discharge of functions by officers of the authority; iii. the roles and functions of the head of paid service, monitoring officer and chief finance officer; iv. the code of conduct for local government employees issued by the Secretary of State in accordance with section 82 of the Act; v. any rules governing the recruitment, appointment, dismissal and disciplinary action for officers of the authority; vi. any protocol established by the authority in respect of relationships between members of the authority and officers of the authority;	Part 2 – Article 12 Review and Revision of the Constitution Part 3 – Section A Local Choice Functions Part 3 – Section D Scheme of Delegation to Officers Part 3 – Section K Officer Employment Standing Orders Part 4 – Section B Code of Conduct for Employees Part 4 – Section C Councillor/Officer Relations Protocol	Provisions would benefit from being consolidated into fewer places
u	a description of the arrangements the authority has in place for access of the public, members of the authority and officers of the authority to meetings of the authority, committees and sub-committees of the authority, joint committees established with any other local authority, the executive and committees of the executive	Part 2 – Article 2 Residents and The Council Part 3 – Section F Access to Information Standing Orders Part 3 – Section H Cabinet Standing Orders Part 3 – Section L (public speaking Appendices)	
v	a description of the arrangements the authority has in place for access of the public, members of the authority and officers of the authority to information about the decisions made or to be made by in respect of local authority's functions and activities.	Part 2 – Article 2 Residents and The Council Part 3 – Section E Council Standing Orders Part 3 – Section F Access to Information Standing Orders Part 3 – Section H Cabinet Standing Orders	
w	a register stating i. the name and address of every member of the local authority executive for the time being and the ward or division (if any) which he represents; and ii. the name of every member of each committee of the local authority's executive for the time being.	Not included	This information could be hyperlinked to Councillor pages on the web
x	a description of the rules and procedures for the management of its financial, contractual and legal affairs	Part 2 – Article 5 Non Executive Functions	We consider that the Financial Procedure rules can be shortened, and that repetition between the various parts of

	Requirement of Direction	Council's Constitution	Comment
	<p>including:</p> <ul style="list-style-type: none"> i. procedures for auditing of the local authority; ii. the local authority's financial rules or regulations or such equivalent provisions as the local authority may have in place whether specified in the authority's standing orders or otherwise; iii. rules, regulations and procedures in respect of contracts and procurement including authentication of documents whether specified in the authority's standing orders or otherwise; and iv. rules and procedures in respect of legal proceedings brought by and against the local authority 	<p>Part 2 – Article 10 Finance, Contracts and Legal matters Part 3 – Section D Scheme of Delegation to Officers Part 3 – Section G Budget and Policy Framework Standing Orders Part 3 – Section K Responsibilities for Financial Management Part 3 – Section L Financial Planning Part 3 – Section M Risk Management and Control of Resources Part 3 – Section N Financial Systems and Procedures Part 3 – Section O External Procedures Part 3 – Section P Contract Procurement Rules</p>	<p>the Constitution which deal with financial matters can be reduced whilst still complying with the Direction. We would advocate the removal of the appendices.</p> <p>Audit arrangements could be described in Part 1.</p> <p>References to the Accounts and Audit Regulations 2003/2006/2011 need updating as having been repealed by the Accounts and Audit Regulations 2015.</p> <p>The Council is signed up to PSAA Ltd for the appointment of its external auditors and this could be reflected in the Financial Regulations (currently section M).</p> <p>The Interim Head of Legal has delegated to her/him the institution defence and conduct of legal proceedings. We would recommend wider delegation to the Monitoring Officer/ Head of Legal on the management, settlement, withdrawal and discontinuance of claims and legal proceedings.</p>
y	<p>a description of the register of interests of members and co-opted members of the authority required under section 81 of the Act [now s29 Localism Act 2011], together with the procedures for publicising, maintaining and updating that register.</p>	<p>Part 4 - Section A Code of Conduct for Members</p>	<p>The register is referred to but there is no description or procedure for publicising, maintaining and updating it. Maintaining the register is not mentioned in the list of the Monitoring Officer's functions in Part 2- Article 9 A web-link would be helpful to the Register perhaps linked to the Code/Arrangements for dealing with an alleged breach.</p>
x	<p>a description of the rules and procedures for review and revision of the authority's constitution and executive arrangements or, as the case may be, alternative arrangements</p>	<p>Part 2 – Article 3 Part 2 – Article 12 Part 3 – Section D Scheme of Delegation to Officers Part 3 – Section E Council Standing Orders</p>	<p>Article 12 refers to the Governance, Audit and Finance Committee making recommendations to Full Council on any changes not delegated to the MO (such changes necessary to reflect changes in the law/alterations in management structure in so far as these are consistent with Council policy) and subject to a report back to Governance, Audit and Finance Board.</p> <p>These powers should ensure that the Constitution can be</p>

	Requirement of Direction	Council's Constitution	Comment
			<p>kept reasonably up to date without having to regularly take it all back to Full Council. We would recommend that the Monitoring Officer is given more power to update the constitution as required from time to time, to reflect:</p> <p>a) a minor variation; or b) required in order to remove any inconsistency or ambiguity; or c) required so as to give effect to any decision of the Council or one of its committees or sub-committees; or the Cabinet or one of its committees or sub-committees</p>

2 OTHER LEGISLATIVE REQUIREMENTS

2.1 In addition to the requirements under the Direction, there are a number of other legislative requirements specifying content of local authority constitutions:

	Legislative Requirements	Council's Constitution	Comment
a	<p>Openness of Local Government Bodies Regulations 2014 (SI 2014/2095):</p> <p>where a member of the public is entitled to attend a meeting of the Council, or of any of its Committees or Sub-Committees, Cabinet or a Committee of Cabinet, that person may also "report on the meeting", by which it means –</p> <p>2.1.1 Filming, photographing or making an audio recording of the meeting;</p> <p>2.1.2 Relaying that video or audio recording to enable others not present at the meeting to see or hear it at the same time as the meeting; and</p> <p>2.1.3 Reporting or providing oral or written commentary on the meeting, so that others not present at the</p>	<p>Part 3 – Section E Council Standing Orders SO 27 and Appendix 8 of Section L of Part 3 of this Constitution</p>	<p>The public's rights to film and record meetings is captured.</p> <p>The protocol on recording, photography and use of social media at Council, Cabinet and other public meetings is included at Appendix 8 of Section L of Part 3 but could be hyperlinked from the Policy Hub rather than included in the constitution.</p> <p>There is no mention in Part 2 – Article 2 of these rights nor in Part 3 – Section F Access to Information Standing Orders</p>

	Legislative Requirements	Council's Constitution	Comment
	<p>meeting may hear it at the same time as the meeting. However, authorities are given a discretion not to allow a person to make an oral report or commentary if he/she is actually present at the meeting (presumably to avoid disruption of the meeting).</p> <p>The Regulations place a duty on the authority to afford reasonable facilities for the person to so record and report the meeting.</p>		
b	<p>Local Government (Executive Arrangements) Meetings and Access to Information (England) Regulations 2012/2089:</p> <ul style="list-style-type: none"> • Regulation 5(1) – 5(5) of the 2012 regulations introduced the need for 28 days' clear notice of the intention to hold a meeting of a decision-making body in private, including a statement of the reasons for the meeting to be held in private, to appear on the authority's website and be available for public inspection at the local authority's office. A further 5 clear days before a private meeting, the decision-making body must make available at the offices of the relevant local authority a further notice of its intention to hold the meeting in private; and publish such notice on the website. • Where the date by which a meeting must be held makes compliance with these provisions impracticable, under regulation 5(6) the meeting may only be held in private where the decision-making body has obtained agreement from the Chairman of the Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred. • Regulation 9 of the 2012 regulations introduced the need for 28 days' clear notice for the subject matter of executive and key decisions to appear on the authority's website and be available for public inspection at the local authority's office. • Regulation 10(1) allows, that if it is impracticable for the Council to give the required 28 days' notice, the decision may still be made if the Chairman of the Scrutiny Committee has been given notice in writing of the matter about which the decision is to be 	Part 3 – Section F Access to Information Standing Orders	<p>We note that the Constitution does not provide for the rules on private meetings. These should be included.</p> <p>There is no clear definition of a 'key decision' with no reference to what constitutes significant expenditure or savings. We recommend this is reviewed.</p>

	Legislative Requirements	Council's Constitution	Comment
	<p>made, a copy of the notice is made available for inspection by the public and is published on the Council's website, and at least 5 clear days have elapsed following the day on which the notice is made available for inspection by the public.</p> <ul style="list-style-type: none"> • Exceptions and special urgency provisions 		
c	<p>Local Audit Panel arrangements required by the Local Audit and Accountability Act 2014:</p> <ul style="list-style-type: none"> • The Audit Commission wound up in March 2015 and any references to the Audit Commission should be removed. • Public Sector Audit Appointments Limited (PSAAL) then took on the responsibility for making auditor appointments and setting audit fees until the current contracts with audit firms expire. • Local authorities must appoint an auditor for 2017/18 by December 2016 in accordance with Part 3 of the 2014 Act (and Schedule 3). • Section 9 of the Act requires the Council to have an auditor panel to advise the authority on a) the maintenance of an independent relationship with the appointed local auditor, b) the selection and appointment of a local auditor, c) any proposal to enter into an agreement limiting the liability of its auditor(s) unless PSAAL is appointed. • The advice of an auditor panel must be published 	<p>Part 2 – Article 5 Non Executive Functions (Governance, Audit and Finance Committee)</p>	<p>The Terms of Reference for the Governance, Audit and Finance Committee should make it clear that it is Public Sector Audit Appointments Limited that appoints the Auditor.</p> <p>Also, please see below in respect of the Accounts and Audit Regulations 2015.</p>
d	<p>The Accounts and Audit Regulations 2015 requirements:</p> <ul style="list-style-type: none"> • The responsible financial officer must certify the presentation of the accounts • The annual accounts (including the governance statement) must be published with the audit opinion and certificate, and before that must have been approved by members, by no later than 31st July. • The responsible financial officer must re-certify the presentation of the annual accounts before member approval is given. • The responsible financial officer must ensure that the period for 	<p>Part 2 – Article 5 Non Executive Functions (Audit Committee)</p> <p>Part 3 – Section D Scheme of Delegation to Officers</p> <p>Part 3 – Section K Roles and Responsibilities in Financial Management</p>	<p>The requirement for the responsible financial officer to certify the presentation of the accounts should be included in the Constitution.</p> <p>We consider that the Financial Regulations require a general review and update to bring them into line with the requirements of the Accounts and Audit Regulations 2015.</p>

	Legislative Requirements	Council's Constitution	Comment
	<p>the exercise of public rights includes the first 10 working days of July for reporting on financial years 2015/16 and 2016/17.</p> <ul style="list-style-type: none"> Public rights (which will include rights of objection, inspection and questioning of the external auditor) may only be exercised within a 30 day period. During this period all relevant documents must be available for public inspection. Documents relating to the published statement of accounts must remain available for public access for a period of not less than 5 years. A narrative statement must be prepared to support the statement of accounts. 		
e	<p>The Local Authorities (Standing Orders) (England) Regulations 2001 as amended by The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 require</p> <ul style="list-style-type: none"> any allegation of misconduct against senior officers with statutory responsibilities (Head of Paid Service, Monitoring Officer and s151 Officer) to be considered by an Independent Persons Panel where a recommendation to Council is likely to be made to Council for dismissal. the Panel to be a committee of the authority certain specific standing orders to be added to the Council's constitution. 	<p>Part 3 – Section K Officer Employment Standing Orders</p> <p>Joint Human Resources Committee ToR require updating</p>	<p>The role of Investigation and Disciplinary Committee in relation to Chief Officers should be a committee established under s102 of the Local Government Act 1972.</p> <p>We would recommend that a Panel is drawn from the Joint Human Resources Committee of three members to include one member of the Cabinet to meet the requirements of the Chief Officers Terms and Conditions of Service and the Regulations.</p> <p>We consider that there should also be a standing Panel of Independent Persons referred to in the Standing Orders Regulations and the Terms and Conditions of Service appointed by the Council under s102(4) of the LGA 1972, and Terms of Reference should be included for an "Independent Persons Panel" to comply with the requirements of the legislation. It would be helpful for the Council to have more than one Independent Person (potentially 3) should a Panel of 2 need to be convened for these purposes (though individuals may be invited from neighbouring areas)</p>

	Legislative Requirements	Council's Constitution	Comment
			<p>We believe the Independent Persons Panel may meet concurrently with the Panel where a statutory officer faces disciplinary allegations that could lead to dismissal, on a case by case basis.</p> <p>We believe the mandatory standing orders should include reference to political assistant provisions, whether the Council has them or not and so they should be included.</p>
f	<p>Statutory Guidance on the constitution of the Licensing Committee and sub-committees under s.182 Licensing Act 2003, with appropriate decisions delegated to Officers and appeals.</p>	<p>Part 2 - Article 5 – non-Executive Functions</p>	<p>The latest statutory guidance was issued in April 2018. We assume that the updated guidance will be taken into account in any re-write of the Constitution.</p> <p>We append a copy of the guidance at Appendix 1 to this Checklist.</p>



Home Office

Revised Guidance issued under section 182 of the Licensing Act 2003

April 2018

Administration, exercise and delegation of functions

- 14.68 The 2003 Act provides that the functions of the licensing authority (including its determinations) are to be taken or carried out by its licensing committee (except those relating to the making of a statement of licensing policy or where another of its committees has the matter referred to it). The licensing committee may delegate these functions to sub-committees consisting of three members of the committee, or in appropriate cases to officials supporting the licensing authority. Where licensing functions are not automatically transferred to licensing committees, the functions must be carried out by the licensing authority as a whole and not by its executive. Statements of licensing policy should indicate how the licensing authority intends to approach its various functions. Many of the decisions and functions will be purely administrative in nature and statements of licensing policy should underline the principle of delegation in the interests of speed, efficiency and cost-effectiveness.
- 14.69 The 2003 Act does not prevent the development by a licensing authority of collective working practices with other parts of the local authority or other licensing authorities for work of a purely administrative nature, e.g. mail-outs. In addition, such administrative tasks may be contracted out to private businesses. But any matters regarding licensing decisions must be carried out by the licensing committee, its sub-committees or officers.
- 14.70 Where, under the provisions of the 2003 Act, there are no relevant representations on an application for the grant of a premises licence or club premises certificate or police objection to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters should be dealt with by officers in order to speed matters through the system. Licensing committees should receive regular reports on decisions made by officers so that they maintain an overview of the general situation. Although essentially a matter for licensing authorities to determine themselves, it is recommended that delegation should be approached in the following way:

Table: Recommended Delegation of Functions

Matters to be dealt with	Sub Committee	Officers
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a representation is irrelevant frivolous vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases