

# NON-EXEMPT

## HAVANT BOROUGH COUNCIL

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**Council**

**13 November 2019**

### **Note the approach and Timetable for the Constitutional Review**

**Councillor Bowerman**

**Vice-Chairman of the Constitution Sub-Committee**

#### **FOR NOTING**

**Director: Chief Financial Officer**

**Author: Head of Legal Services**

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#### **1.0 Purpose of the paper**

- 1.1** In July this year Full Council approved a review of the constitution to be overseen jointly with East Hampshire via a sub-committee of full council. The sub-committee's first meeting was on 14 October 2019 and the Committee approved the approach to be taken re-drafting the constitution.

#### **2.0 Recommendations**

- 2.1 Note the draft contents page in appendix 1  
2.2 Note the draft timetable for delivery appendix 2  
2.3 Note the approach to the drafting of the Havant Borough Council Constitution as set out in appendix 3

#### **3.0 Executive summary**

- 3.1** The constitution of Havant Borough Council has survived many years and multiple reviews which over time have resulted in the current document beginning to show its age through inconsistencies and historic anomalies.
- 3.2** The review will create a new bespoke Constitution that is uniquely designed to meet the needs of Havant Borough Council.
- 3.3** The proposed approach is designed to simplify the structure of the document and to make it easier to use for officers and members. The accessibility of the constitution is extremely important as this is a key working document for Havant Borough Council. One of the main areas for review is the delegations and committee functions. This is important to ensure there are clear delegations to officers, clarity around the member officer interface and relationship of both to committees. The recommendations for Havant Borough Council are set out in more detail in appendix 3.

- 3.4 The policy considerations were initially considered at Full Council but following commentary around training these were withdrawn and refreshed. The committee has made many recommendations to alter the policy wording to reflect the wider concerns expressed at council.
- 3.5 Training is now reflective of the proposal contained in recommendation 25 of the recent report by the Committee for Standards in Public life “Local Government Ethical Standards. Which is a review by the Committee on Standards in Public Life.” published in January 2019. This places the responsibility for ensuring the competence of councillors put forward to committees with the political group leaders. Training should be made available to members and group leaders will then be able to select members for each committee based upon training or other experience.
- 3.6 In addition, officers have been asked to look at options to ensure appropriate training is provided and that attendance is appropriately recorded for group leaders and if appropriate, wider circulation. An additional policy requirement was added in respect of plain English and if appropriate obtain a clear English accreditation.
- 3.7 The constitutions are designed to be more succinct and the initial draft will follow the sample contents page at appendix 1.
- 3.8 Havant will have its own dedicated constitution, tailored to meet the needs of Havant Borough Council. The timetable in Appendix 2 provides for indicative consultation but Members who wish, will be encouraged to comment throughout the development of the document as ultimately the elected members of Havant will have the final approval of their Constitution.
- 3.9 The engagement of all members is important to the process as any constitution will require approval at Full Council. The draft timetable sets out some provisional arrangement for wider member consultation. However, it is important to note the drafts will be accessible to all members who will be encouraged to consider, ask questions, comment and contribute before the document is presented to Full Council in final draft form. The aim is to ensure there are no controversial elements by the time of final approval. After it has been approved in draft, the document with any amendments from council, will be prepared as a final document to be presented to Full Council for final approval.
- 3.10 The election cycle 2020 for Havant Borough Council may result in a clash between the decision making in the pre-election period, the review finalisation and the need to have the constitution prepared for annual council. Although every effort will be made to ensure any controversial elements are resolved, and to avoid additional meetings, members should be aware it may require an extraordinary meeting of council in March 2020.

#### **4.0 Additional budgetary implications**

4.1 None

#### **5.0 Background and corporate strategy and directorate business plan(s)**

5.1 This links directly to the production of a revised constitution as delegated by council to the sub-committee which met on the 14 October 2019.

#### **6.0 Options and reasons for recommending relevant option**

6.1 Option 1: Do Nothing. This constitution could simply be updated in its current form. This would be the simplest approach but would retain the majority of issues which would then be resource intensive to maintain.

6.2 Option 2: Significantly alter the structure of the constitution to make it more flexible and in need of less formal reviews and updating. To improve readability and accessibility for members and officers and ensure the constitution is properly placed as a core working document in the governance structures.

#### **7.0 Equality Impact Assessment**

7.1 Equality issues will be addressed in the drafting of the both in structure and style and it should be noted the sub committee have requested the document is drafted in a plain English to improve accessibility and understanding.

#### **Resource implications**

7.1 Financial implications: None

7.2 Human Resource implications: None

7.3 Information Governance implications: None

7.4 Other resource implications: Additional resource implications will be met by the Monitoring Officer team out of existing resources.

#### **8.0 Legal implications**

8.1 This approach is designed to facilitate a more modern and flexible constitution that is fully up to date and has a high degree of 'future proofing'. The structure is designed to be simpler for Members and Officers with much clearer delegations.

#### **9.0 Significant risks**

9.1 The do-nothing option risks future challenge. The risk of challenge increases over time as there is more opportunity for mis-judgements to occur.

## **10.0 Consultation**

10.1 This is a recommendation from the sub-committee, and the draft timetable sets out a proposed consultation

## **11.0 Communication**

11.1 The constitution will be republished in draft for wider comments when the initial document is completed.

## **Appendix 1 - 3**

**Appendix 1 Constitution Contents page**

**Appendix 2 Indicative timetable**

**Appendix 3 Bevan Brittan health check and proposals**

Agreed and Signed off by:

Monitoring Officer: 28.10.19

S151 Officer: 29.10.19

Portfolio Holder: 25.10.19

**Contact Officer:** David Brown  
**Job Title:** Interim Head of Legal Services  
**Telephone:** 023 9244 6524  
**E-Mail:** [David.Brown@easthants.gov.uk](mailto:David.Brown@easthants.gov.uk)

East Hampshire and Havant Councils

**Example title page for the revised Constitution: Contents**

	<b>Page</b>
Part 1 - <a href="#"><u>Summary and Explanation:</u></a>	
(This section sets out an overview of how the Council operates, what the key parts of the Constitution cover and what rights members of the public/residents have and it will incorporate some more detail from the current Articles).	
Part 2 - <b>Responsibility for Functions:</b>	
Diagrammatic explanation of decision making bodies/Management Structure	
Council Functions	
Local Choice Functions	
Executive Functions	
Committees	
Joint Arrangements	
Officer Delegations (including high level Officer structure charts)	
Proper Officer Provisions	
Part 3 - <b>Standing Orders</b>	
Council and Committee Meetings Standing Orders	
Executive Standing Orders (including Cabinet Committee Rules)	
Overview and Scrutiny Standing Orders	
Access to Information Standing Orders (including rules on Public Speaking combining all current rules or hyperlinking)	
Budget, Policy Framework and Financial Standing Orders	
Contracts Standing Orders	
Officer Employment Standing Orders	
Part 4 - <b>Codes and Protocols</b>	
Members' Code of Conduct (and Arrangements for dealing with complaints regarding Breach of the Code or hyperlink)	
Officers' Code of Conduct	
Protocol on Member/ Officer Relations	
Part 5 - <b>Members' Allowances Scheme:</b>	
Members' Allowances Scheme (could be hyperlinked)	

Part 6 - **Glossary of Terms**

**Parts which we advise could be removed altogether (with some of the content being included elsewhere):**

<b>Part 2 -</b>	<b>Articles of the Constitution</b>
Article 1	Members of the Council
Article 2	Residents and the Council
Article 3	The Full Council and Committees
Article 4	The Chairman of the Council
Article 5	Non-Executive Functions
Article 6	The Cabinet [Scrutiny Board HBC]
Article 7	Joint Arrangements [The Cabinet HBC]
Article 8	Officers [Joint Arrangements HBC]
Article 9	Decision Making [Officers HBC]
Article 10	Finance, Contracts and Legal Matters [Decision Making HBC]
Article 11	Review and Revision of the Constitution [Finance, Contracts and Legal Matters HBC]
Article 12	Description of Executive Arrangements [Review and Revision of the Constitution HBC]
[Article 13	Description of Executive Arrangements HBC]

**Part 3 - Rules, Procedures and Protocols**

Section J Committee and Sub-Committee Standing Orders – these will be included in the Council Procedure Rules or within the specific Terms of Reference for the particular committee.

Section

M – Q (EHDC) & These sections will be consolidated into a streamlined set of K-O (HBC) & Financial Procedure Rules

Appendices 1-3

**Parts which could be referred to by hyperlink rather than being included in full:**

List of Councillors

Management Structure

Public Speaking Rules

Members' Allowances Scheme (or could remain)

Description of Councillors' Roles

Deputations/Petition Scheme – (could be summarised as Guidance elsewhere on the web and hyperlinked)

**Other documents that could be omitted altogether** include:

Statutory references e.g. extract of the Accounts and Audit Regulations 2015

**APPENDIX 2**

**TIMETABLE FOR JOINT CONSTITUTION SUB-COMMITTEE**

<b>Date</b>		<b>Location</b>
14 October 2019	First Meeting Sub Committee Bevan Brittan to attend and present a general report & Health Check and proposals	Penns Place
17 October 2019	Cabinet Briefing to inform on approach agreed at Sub-Committee and explain programme of work, timetable and future engagement.	EHDC
23 October 2019	Cabinet Briefing to inform on approach agreed at Sub-Committee and explain programme of work, timetable and future engagement.	HBC
7 November 2019	Report to Council this report will confirm timetable and structure of document and the policy principles agreed.	EHDC
13 November 2019	Report to Council this report will confirm timetable and structure of document and the policy principles agreed.	HBC
13 December 2019	Second Meeting Review of first draft of constitution. Agree approach to identified issues and confirm any policy matters identified	The Plaza
28 January 2020	Third Meeting to finalise drafting issues and any extant policy matters	To be confirmed
To be confirmed	Councillor Briefing Session with draft constitution. All members to input on to draft prior to first presentation to full Council.	HBC To be confirmed

<b>Date</b>		<b>Location</b>
To be confirmed	Councillor Briefing Session with draft constitution. All members to input on to draft prior to first presentation to full Council.	EHDC To be confirmed
16 February 2019	Budget Council draft presented for approval in principle and noting of any amendments.	EHDC
26 February 2020	Budget Council draft presented for approval in principle and noting of any amendments.	HBC
9 April 2020	Extraordinary Council - final document to be considered	EHDC
March 2020 no date selected PURDAH	Extraordinary Council – final document to be considered	HBC