

Name of Committee:	Standards Committee		
Committee Date:	7 November 2023		
Report Title:	Constitution Review		
Responsible Officer:	Jo McIntosh, Chief Legal Officer and Monitoring Officer		
Cabinet Lead:	Cllr Bowdell, Cabinet Lead for Finance		
Status:	Non-Exempt		
Urgent Decision:	No	Key Decision:	No
Appendices:	Appendix 1 – Summary of revisions Appendix 2 - Revised Constitution		
Background Papers:	None		
Officer Contact:	Name: Jo McIntosh Email: jo.mcintosh@havant.gov.uk		
Report Number:	HBC/048/2023		

Corporate Priorities:

The revised Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Therefore, the Constitution supports delivery of all the priorities described in the Corporate Priority themes: Wellbeing, Pride in Place and Growth providing a sound basis for governance across the Council's activities. A clear and concise Constitution will also make a positive contribution to the One Team values, especially in promoting working together efficiently and effectively.

Executive Summary:

Following a review of the Council's Constitution, this report seeks the adoption of the Council's new Constitution.

It is considered good practice to undertake a thorough review once every five years or so. This allows an opportunity to be taken to ensure that the constitution continues to be fit for purpose. In practice, the review seeks to make changes in the interests of simplification and improving understanding of the Constitution.

For the most part, the content of the Constitution remains the same. The Constitution has been amended to reflect a more modern, simplified style of drafting and provide a more user-friendly overview. It has also allowed the opportunity to clarify areas subject to interpretation from time to time.

Recommendations:

That Council is recommended to resolve that:

- A. The revised Constitution for Havant Borough Council as attached to the report, be adopted, in accordance with Section 9P of the Local Government Act 2000.
- B. The Monitoring Officer be authorised to correct any minor typographical errors or inconsistent numbering or cross references which become evident in publishing the Constitution in its final form.
- C. The Constitution be reviewed by the Standards Committee bi-annually with any recommended changes arising from its review to be submitted to Council for determination.

1.0 Introduction

- 1.1 The recommended Constitution is attached as an appendix for consideration and approval and consists of the following:
- Part 1 – Summary and Explanation
 - Part 2 – Articles of the Constitution
 - Part 3 – Responsibility for Functions
 - Part 4 – Rules of Procedure Part 5 – Codes and Protocols
- 1.2 The Constitution has been updated to reflect both the objectives listed in this report and other more routine changes, such as updating references to the management structure and officers' titles. A copy of the revised Constitution can be found at Appendix 2. Those sections subject to no change have not been appended to this report.

2.0 Purpose

- 2.1 The Councils constitution provides a framework within which people can understand their own responsibilities, and the responsibilities of others. It allows decision-making, within a democratically elected body, to be consistent, accountable and transparent.
- 2.2 It facilitates strong, effective relationships. Good constitutions provide an anchor for strong organisational and political cultures in which people work well together, and in which decision-making is well-understood by (and visible to) the public. Constitutions are also rulebooks. They set out much, but not all, of the technical detail of how a council's main decision-making systems operate.
- 2.3 A good constitution is one that is used and understood by councillors and officers alike and not just governance professionals. Perhaps more importantly, a good constitution is one whose core purpose is understood by those people. It is easy for councils to find themselves in a situation where the minutiae of rules become more important than the objectives those rules are meant to meet. A constitution should be a living document, one that reflects not only evolving practice and law, but also one that is periodically strengthened and refined (as a whole document) to ensure it stays both relevant and consistent.
- 2.4 It is considered good practice to undertake a more thorough review once every five years or so. More than "tidying up", it allows an opportunity to be taken to ensure that the constitution as a whole continues to be fit for purpose.

3.0 Objectives

- 3.1 The overall objectives of the review of the Constitution are:
 - 3.1.1 Reviewing our current governance practices. Does the constitution deliver for the Council?
 - 3.1.2 Ensure that the constitution is modern and easy to read by all. To use less legal jargon and more plain English. To seek to introduce workflows and info graphs wherever possible.
 - 3.1.3 The rights of the public. Although constitutions often contain little information other than that which is required by statute on the rights of the public, there is an opportunity to set out principles and commitments around the way that the council will consult and engage with residents, especially on important decisions.
 - 3.1.4 Ad hoc changes can lead to a situation where the constitution becomes choppy, inconsistent, difficult to navigate and inaccessible. Minor changes to the law, where overlooked, can result in inaccuracies which can persist for many years. Often these issues do not have enormous impact but a knowledge that certain parts of the constitution may be inaccurate can lead to a chipping away of the document's authority. A review shall eliminate these issues.
 - 3.1.5 It is still a rule book. By law, a council's constitution must contain certain key elements. The detail of these can be found in the Local Government Act 2000 (Constitutions) (England) Direction 2000.

4.0 Summary of Constitution Changes

In practice, the review seeks to make changes in the interests of simplification and improving understanding of the Constitution. Wherever possible the changes represent a more modern, simplified style of drafting and provide a more user-friendly overview. The Constitution review also provides an opportunity to ensure that our current Executive Leadership Team and its membership is reflected within the document. A summary of changes to the Constitution can be found at Appendix 1 together with a copy of the revised Constitution at Appendix 2.

5.0 Options

- 5.1 Adopt the revised constitution: The preferred and recommended option.

- 5.2 Do nothing and retain the current Constitution: This option would not respond to the objectives of the review or improve understanding of its content.
- 5.3 Partially adopt the recommend revisions to the Constitution: This option is not recommended on the grounds that many parts of the Constitution are inter-related and a piecemeal approach to amending it would risk embedding inconsistencies within the document.
- 5.4 A do nothing approach or partial adoption does not recognise that the Constitution has not been subject to a thorough review. This has been highlighted in the Annual Governance Statement. It is therefore considered that a review is overdue.

6.0 Relationship to the Corporate Strategy

Good constitutions provide an anchor for strong organisational and political cultures in which people work well together, and in which decision-making is well-understood by (and visible to) the public. The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. The Constitution supports the delivery of all the priorities described in the Council's Corporate Strategy. As such, it is important that it is a locally driven document which reflects the character and culture of the organisation and facilitates Council business.

7.0 Adoption, embedding and familiarisation

- 7.1 The Constitution needs to be formally adopted by Full Council. Prior to adoption the Constitution has been considered by relevant subject matter experts within the Council, as well as Members, it shall then be considered by Standards Committee prior to being submitted for final approval at Full Council.
- 7.2 Following adoption, the constitution needs to be embedded. There are systems and written rules which sit outside the constitution, standard operating procedures that govern day to day work, which will need to be altered to ensure that they align with new Constitution content.
- 7.3 Work shall be scheduled to familiarise members and officers with the new content of the constitution. Training and coaching shall be undertaken in the next few months.

7.4 The Constitution shall be available on the Council's website. Any minor grammatical, formatting or numbering issues shall be resolved prior to publication.

8.0 Conclusion

8.1 This report outlines the proposed revisions to the Council's Constitution and recommends that the revised Constitution is adopted.

9.0 Implications and Comments

9.1 S151 Comments

The Council's constitution is a vital document in supporting sound financial governance of the Council's finances. Whilst these revisions have no direct financial impact, they strengthen the required governance processes and therefore are recommended and supported by myself as Section 151 officer.

9.2 Financial Implications

Nothing directly arising from this report.

9.3 Monitoring Officer Comments

The Monitoring Officer is responsible for the monitor and review of the operation of the Constitution on a regular basis, to ensure that it is up to date and that the aims and principles of the Constitution are given full effect. The Monitoring Officer has undertaken a review and recommends the adoption of the revised Constitution. The Monitoring Officer has also highlighted areas for future consideration.

9.4 Legal Implications

Under Section 9P of the Local Government Act 2000 (the 2000 Act), local authorities must prepare and keep up to date a Constitution, which must also be made available to the public.

The Council's Constitution follows a standard format as recommended by the former Department of the Environment, Transport and the

Regions (DETR) in 2001, as part of the implementation of the 2000 Act.

Changes to the Constitution are matters reserved to the Council to determine. As a result, the adoption of a new Constitution must be agreed by Council.

9.5 Equality and Diversity

Nothing arising specifically from the body of this report.

9.6 Human Resources

Nothing arising specifically from the body of this report.

9.7 Information Governance

Nothing arising specifically from the body of this report. The Data Protection Officer has been consulted in respect of the Access to Information Rules.

9.8 Climate and Environment

There are no specific environmental and climate implications to report in relation to the recommendations set out in this report, as it is purely about changes to the Council's procedures. It is anticipated that the report will be neutral in terms of affecting the Council's carbon footprint and on the environment and biodiversity of Havant.

10.0 Risks

Nothing arising specifically from the body of this report save as for robust governance arrangements ensure that the Council is making informed and documented decision reducing risk to the Council.

11.0 Consultation

Officers and Members of the Council have been consulted in respect of the review. Given the nature of the document the document has not been subject to public consultation.

12.0 Communications

The Constitution is a public document and following adoption shall be available on our website.

Agreed and signed off by:		Date:
Cabinet Lead:	Cllr Bowdell	12 October 2023
Executive Head:	Matt Goodwin	30 October 2023
Monitoring Officer:	Jo McIntosh	30 October 2023
Section151 Officer:	Steve Pink	12 October 2023