

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Cabinet
Date:	18 April 2011
Title:	Review of the Constitution
Reference:	2872
Report From:	The Chief Executive

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1. Executive Summary

- 1.1. By virtue of Part 1, Chapter 12, paragraph 12.4 of the County Council's Constitution, the Monitoring Officer has the duty to maintain the Constitution.
- 1.2. By virtue of Part 1, Chapter 15, paragraph 15.1 of the County Council's Constitution, the Audit Committee, with guidance from the Monitoring Officer, is required to monitor and review the operation of the Constitution, and to report to Cabinet any changes it considers necessary. Cabinet is also required to monitor and review such aspects of the Constitution as it considers appropriate and to consider any advice from Audit Committee, and to make any recommendations to full Council.
- 1.3. The revised Constitution was presented to Audit Committee on 4 March 2011, and the revised Constitution was approved by Audit Committee for submission to Cabinet.
- 1.4. Following submission to Audit Committee, a Member's Workshop on the revised Constitution was held on 7 April 2011. A note of comments of Members from the workshop will follow shortly as an addendum to this Report.
- 1.5. The purpose of this report is to present the revised Constitution to Cabinet, and to seek the approval of Cabinet to the revision. The revised Constitution is attached at Appendix 1.

2. Contextual information

- 2.1. As a consequence of operating Executive Arrangements, the County Council is required, in accordance with Section 37 of the Local Government Act 2000, to prepare, keep up-to-date, and publicise a Constitution. The present Constitution is based on a modular version and guidance provided by the

then Department of the Environment, Transport and the Regions to Local Authorities in consequence of changes in governance arrangements from the Committee model of Member decision making to the Executive Model introduced by the Act. The County Council's Constitution was adopted in March 2001 and has been updated from time to time since this date as a result of changes in the law and in the County Council's own procedural requirements. There has not, however, been a full review of the Constitution since its adoption in March 2001.

- 2.2. The County Council at its meeting on 16 July 2009 considered it appropriate as a matter of good governance, that there should be a review of the County Council's Constitution to ensure best practice and continued fitness for purpose, and to ensure that the Constitution continued to meet operational needs. The County Council also considered that following this review, there should thereafter be an annual review of the Constitution as part of the County Council's Corporate Governance arrangements, and the Chief Executive in consultation with the Monitoring Officer was instructed to carry out this task. This paper sets out the revised Constitution.
- 2.3. It should be noted that this Constitution does not contain any changes proposed by Government in the Localism Bill. The Constitution will be revised further once such proposals become law, and any consequential changes to the County Council's governance arrangements are determined.

3. Summary of Main Changes

- 3.1. The revised Constitution is divided into five Parts. Part 1 contains 16 chapters explaining the business model of the County Council, including the appointment of its various Committees, and Executive Arrangements, and Chief Officers
- 3.2. Part 2 sets out in one place the allocation of functions of the County Council, making it clear which functions are reserved to the County Council either by law, or by choice, which functions are allocated to Committees (and to which particular Committee), and which functions are the responsibility of the Executive, either by law or by choice of the County Council. This Part also sets out clearly, delegations to Chief Officers.
- 3.3. The statutory functions of Select (Overview and Scrutiny) Committees are also set out in Part 2, with a specific section allocated to the functions of Scrutiny Committees. There is also a new section setting out clearly the role and the functions of the Heath (Overview and Scrutiny) Committee (HOSC).
- 3.4. Part 3 sets out clearly the rules of procedure of the County Council. Chapter 1 contains a full revision of the County Council's Standing Orders, which now follow the order of the County Council's business at Council meetings. Points of ambiguity raised over the last two years at County Council meetings are addressed, in particular rules of debate, and there are now specific and separate rules of debate for Part I items and for Notices of Motions. Matters which can be moved without notice are now referred to as 'Proposals', to avoid confusion with Notices of Motions. It is also made clear in Standing Orders which Standing Orders also apply to Committees.

- 3.5. Executive Procedures are fully revised, with inclusion of all procedures and rules relating to the Executive and the conduct of Executive Meetings, (for example requirements and procedures relating to the Forward Plan and Key Decisions) all in one place. This Chapter also makes it clear which Standing Orders also apply to the Executive. Procedures relating to Scrutiny are similarly revised with a new section on Scrutiny Procedures as they apply to the HOSC.
- 3.6. New Access to Information Procedure Rules are included at Chapter 4. Requirements in respect of publications and access to Report, Records of Decisions made and Background Papers are set out, with separate sections for Council/Committee Reports and Documents and Reports and Documents of the Executive. Chapter 4 also includes rules in respect of rights of public access to confidential and exempt information.
- 3.7. Chapter 5 contains revised Financial Regulations, and Chapter 6 includes revised Contract Standing Orders, as approved by the County Council at its meeting in November.
- 3.8. A revised Protocol for Member/Officer Relations is contained at Part 4C. A new protocol in respect of Members Access to Information and to County Council documents (including rights of access to confidential and exempt information) is included within this Protocol as a new paragraph 4.

4. Recommendations

- 4.1. Cabinet is asked to agree the revised Constitution for submission to the County Council for approval.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	N/A
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	N/A
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	N/A
Corporate Improvement plan link number (if appropriate):	

Other Significant Links

Links to previous Member decisions:		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Constitutional Changes – Executive Arrangements, and Review of Constitution	County Council item 9	16 July 2009

IMPACT ASSESSMENTS:

1. Equalities Impact Assessment:

- 1.1. An Equalities Impact Assessment has been completed in the development of this report and no adverse impact has been identified.

2. Impact on Crime and Disorder:

- 2.1. The County Council has a legal obligation under Section 17 of the Crime and Disorder Act 1998 to consider the impact of all the decisions it makes on the prevention of crime and disorder in the County. The proposals in this report have no impact on the prevention of crime.

3. Climate Change:

- a) How does what is being proposed impact on our carbon footprint / energy consumption?
- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?