

## Report to Council

7 December 2016

By the Monitoring Officer

**DECISION REQUIRED**



**Horsham  
District  
Council**

Not Exempt

### Revised Constitution for Horsham District Council

#### Executive Summary

The Constitution Review Group created at Full Council on 27 April 2016 has concluded its review of the constitution and is recommending a revised constitution for Horsham District Council.

#### Recommendations

That the Council is recommended:

- i) To agree the revised constitution for Horsham District Council (attached at appendix 2), with effect from 8 December 2016.
- ii) To dissolve the Council's Personnel Committee and transfer all functions of the Personnel Committee to the Head of Paid Service (Chief Executive).
- iii) To create a Governance Committee comprising nine Councillors including the Chairman of the Council, the Chairman of Overview and Scrutiny Committee and one Cabinet Member.
- iv) To agree (subject to Council's agreement to recommendation iii above) that the Governance Committee (and not the Accounts, Audit and Governance Committee) now undertake the review of the effectiveness of the changes to governance arrangements agreed by Council on 27 April 2016.
- v) To note that the Monitoring Officer will make any minor, typographical and presentational adjustments to the revised Constitution in consultation with the Chairman of the Council.

#### Reasons for Recommendations

- i) To satisfy the requirement for the Council to keep its Constitution under review pursuant to section 9P of the Local Government Act 2000 (as amended by the Localism Act 2011).
- ii) To satisfy the resolution of Full Council, 27 April 2016, that a review be undertaken according to the terms of reference set out, and that recommendations be made to Full Council for consideration.

## **Background Papers**

Presentation to all members, 23 November 2016

**Wards affected:** All wards.

**Contact:** Paul Cummins, Head of Legal and Democratic Services; Ben Bix, Governance Project Manager.

## **Background Information**

### **1 Introduction and General Background**

- 1.1 It is a legal requirement for the Council to have a Constitution under the Local Government Act 2000 (as amended by the Localism Act 2011).
- 1.2 The Government originally issued a 'model' Constitution for adoption by all Councils under the Local Government Act 2000 but since that date there have been no further updates. As a result, Councils have updated their Constitutions themselves, overtime, usually by adding to the document as new legislation has been enacted or in response to internal changes within the Council, such as, reorganisation of governance arrangements or restructures of the Council's management. It has meant Councils Constitutions have moved away from the model and in many cases have become bigger, more bureaucratic and complex as a result. Horsham District Council has been typical in this regard and it was clear that a major review of the Constitution was necessary.
- 1.3 Since the Localism Act 2011 many Councils have reviewed and rewritten their Constitutions as that Act, as well as bringing about significant change in local government, it gave Councils the opportunity to examine their governance arrangements. A major review of governance arrangements took place at the Council following the 2015 Election and this together with the Council's transformation agenda has driven the need for the Council review its Constitution.

### **2 Relevant Council policy**

- 2.1 The Corporate Plan 2016-19 heading Efficiency- Great value services will be better enabled by a modern, agile constitution which is flexible, permissive, well-understood, and realigned to a model constitution in an accessible single-document format.

### **3 Details of the Review**

- 3.1 At Council on 27 April 2016 it was resolved to form a Constitution Review Group of Members to oversee a rewrite of the Council Constitution and facilitate member engagement in the review. The Constitution Review Group comprised; the Chairman of the Council, the Vice-Chairman of the Council, the Leader of the Council, the Deputy Leader of the Council, the Leader of the minority group, the Chairman of Overview and Scrutiny Committee, the Vice-Chairman of Overview and Scrutiny Committee, the Chairman of Standards Committee, the Chairman of Accounts, Audit and Governance Committee and a Cabinet Member.
- 3.2 The terms of reference for the group were set by council in April. The Group wanted to create a document which was shorter, up to date, consistent, more easily understood and fit for purpose. It was important for the Group that the document contained several key requirements; that it was clear what comprised the budget and policy framework, the functions of Cabinet and Scrutiny, had an effective key decision and forward plan framework, specified open and transparent decision-making, clear and meaningful financial limits and compliant with the Public Contracts Regulations 2015.

- 3.3 The Group was supported by the Monitoring Officer and Governance Project Manager. The Group met fortnightly over a four month period to consider reports and draft sections produced by those officers. Sections were drafted by the officers comprising a combination of best practice from other Councils and templates produced by law firm Bond Dickenson (commissioned by Monitoring Officers nationally following the Localism Act 2011). In between meetings Members undertook further work in reviewing documentation and drafts.
- 3.4 The completed draft document has reduced the size of the Constitution from the current 358 pages to 170 pages. Duplication and unnecessary sections of the document have been removed. The Scheme of Delegation has followed current best practice in being set out as an 'exception based' scheme rather than a list of legislative provisions. A full schedule of changes is set out at Appendix 1.

### **Personnel Committee**

- 3.5 As part of the review the Group have recommended that the Personnel Committee be dissolved. Under legislation staffing matters are a function of the Head of Paid Service (the Chief Executive) and therefore it is proposed that the functions of the Personnel Committee are transferred to the Head of Paid Service. The Head of Paid Service has discretion to report to Full Council on staffing matters.

### **Governance Committee**

- 3.6 The Group have recommended the creation of a new Governance Committee which will be tasked with maintaining the Constitution, recommending future amendments and supporting the Monitoring Officer on any mandatory changes as a result of new legislation or minor changes, for example, changes in job title of Senior Officers. The Governance Committee will undertake a review of the Council new governance arrangements, including the operation of Policy Development Advisory Groups (PDAGs) in 2017, consequent to the recommendation of Full Council in April 2016. The terms of reference of the Committee will also include overseeing Electoral and Boundary Reviews.

## **4 Next Steps**

- 4.1 The revised Constitution becomes effective from the resolution of council, 8 December 2016.
- 4.2 Members will be appointed to the Governance Committee at Council on 15 February 2017.

## **5 Outcome of Consultations**

- 5.1 The Constitution Review Group carried out a thorough review and revision of the Council Constitution between July 2016 and November 2016. A number of other Members attended meetings of the Constitution Review Group and contributed to this process.
- 5.2 An All-Member Briefing took place on 23 November 2016.

- 5.3 The Senior Leadership Team have been briefed on major changes to the Constitution and Senior Officers have commented on drafts of sections relevant to their area.

## **6 Other Courses of Action Considered but Rejected**

- 6.1 It could have been decided not to carry out a review of the Constitution at this time.

## **7 Resource Consequences**

- 7.1 There is no cost associated with the changes. The new less bureaucratic and more easily understood document will create opportunities for more efficient processes and working practices.

## **8 Legal Consequences**

- 8.1 Under the Local Government Act 2000 (as amended by the Localism Act 2011) it is a legal requirement for the Council to have a Constitution.

## **9 Risk Assessment**

- 9.1 The recommendations within this report are part of mitigating corporate risk CRR08 described in the Corporate Risk Register. The risk source: The Council's decision-making processes are based on Constitution that is overly bureaucratic and unnecessarily complicated. Event: Non-compliance with the Constitution and delays in decision-making. The potential consequences described are: opportunities lost, complaints/claims/litigation/financial losses and lack of openness and transparency.

## **10 Other Considerations**

- 10.1 The Constitution and its Procedures, Rules and Codes act as an enabling tool in helping the Council meet its obligations under the Human Rights Act 1998, Equality Act 2010.
- 10.2 Consideration of how projects and proposals can secure environmental, social and economic benefits and reduce negative consequences should be an integral part of decision-making and the Constitution will facilitate such considerations.