

**Report to** Council  
16 March 2021  
**Report of** Monitoring officer  
**Subject** Constitution Review

**Item**

**7**

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### **Purpose**

To seek members' approval of the work that has been carried out to review and revise the constitution, to acknowledge the input of the Constitution Working Party, and to recommend the formal adoption of the revised constitution by the Council.

### **Recommendation**

- 1) To approve the work that has been carried out by the Corporate Leadership Team and the cross-party Constitution Working Party to review and revise the constitution; and
- 2) To adopt the revised constitution.

### **Corporate and service priorities**

The report helps to indirectly meet all of the corporate priorities.

### **Financial implications**

There are no direct financial implications arising from this report.

### **Ward/s: Multiple Wards**

**Cabinet members:** Councillor Waters – Leader

Councillor Paul Kendrick – Portfolio Holder for Resources

### **Contact officers**

Geoff Wild, Monitoring Officer 01603 989609

Stuart Guthrie, Democratic Services Manager 01603 989389

### **Background documents**

**None**

# Report

## Introduction

1. A council's constitution should primarily be a locally driven document that outwardly reflects the character and culture of the organisation. It should facilitate council business, deliver consistent, efficient and effective decision-making and enable good governance. It should not create overly bureaucratic procedures but promote transparency, efficiency and democratic accountability.

## Background

1. Norwich City Council's constitution has grown over the past 20 years much like a patchwork quilt. It currently comprises 205 unnumbered pages divided into several unstructured sections. It is out of date in places and is not internally consistent or easily accessible. Furthermore, there are concerns about its accuracy, legal compliance and completeness.
2. Constitutions must be widely and readily available for inspection at all reasonable hours by members of the public and supplied to anyone who asks for a copy on payment of a reasonable fee.
3. However, the document is not accessible as a whole and is consequently difficult to navigate. A member of the public who did not already know which part to look in would find it difficult to locate the constitution or a specific section of it.

## Legislation

4. Every local authority is under a duty to prepare and keep up to date its constitution under section 9P of the Local Government Act 2000.
5. The constitution must contain:
  - (a) the standing orders/procedure rules;
  - (b) the Members' Code of Conduct;
  - (c) such information as the Secretary of State may direct;
  - (d) such other information (if any) as the authority considers appropriate.
6. Under s.135 Local Government Act 1972, every local authority must make standing orders with respect to the making of contracts for the supply of goods or materials or for the execution of works.
7. Further mandatory provisions within constitutions have been made by the following:
  - (a) Sections 8 and 20, Local Government and Housing Act 1989 – standing orders with respect to staff and regulating proceedings.

- (b) The Local Authorities (Standing Orders) Regulations 1993 – standing orders with respect to appointment of chief officers, investigations into misconduct by the Head of Paid Service, the recording of votes and the signing of minutes.
  - (c) The Local Authorities (Standing Orders) (England) Regulations 2001 – standing orders with respect to the operation of executive and alternative arrangements, disciplinary action against staff and regulating proceedings.
  - (d) The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 – standing orders with respect to voting at budget meetings.
  - (e) The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 – standing orders with respect to investigations into misconduct by relevant officers
8. The [Local Government Act 2000 \(Constitutions\)\(England\) Direction](#) was issued by the Secretary of State in December 2000, which stated that the constitution, and other documents referred to in it, should set out in plain English everything anyone who has dealings with the local authority would need to know about how the local authority conducts its business, who takes which decisions and how to work with the local authority. It required over 80 minimum elements to be included as a minimum within constitutions (see **Appendix A**):

## **Procedure**

- 9. Article 15 of the Constitution places a duty on the Chief Executive and the Director of Resources to monitor and review the operation of the constitution to ensure that its aims and principles are given full effect. It also places responsibility on the Monitoring Officer to be aware of the strengths and weaknesses of the constitution and to recommend ways in which it could be amended in order better to achieve its purposes.
- 10. The Council is responsible for approving changes to the articles of constitution, after consideration by the Director of Resources or a body established for that purpose, i.e. the Constitution Working Party. Changes to the appendices may be made by the Director of Resources to reflect decisions taken by the Council, the Cabinet, a committee or the Chief Executive. In addition, the Director of Resources has delegated authority (following consultation with the Chief Executive) to amend the constitution to reflect changes to factual references or changes required by law.

## **Process**

- 11. The Monitoring Officer worked with the Corporate Leadership Team and the cross-party Constitution Working Party throughout February (and in particular at its two 2-hour+ meetings on 5 and 19 February) to:

- (a) Review and consider proposed changes to ensure the constitution is brought up to date with legislation and best practice;
- (b) Develop a clearer, more succinct Constitution, which better reflects the present values of the Council, incorporates changes to modernise the document and makes it easier to use;
- (c) Consider key issues, including:
- (i) Compliance with the Secretary of State's 2000 Direction.
  - (ii) The structure (length, articles, appendices, etc) and how it all works together. Note that there is no requirement to have Articles, and their removal and amalgamation with the Appendices could significantly reduce duplication and length and ease access.
  - (iii) All committees to be merged into one section, combining Articles 6-9 and 17 with Appendix 4.
  - (iv) The new Constitution to be published and capable of being read as a single, complete document, not in individual sections as at present. This will allow the reader to readily access and search the whole document and to more easily search and find cross-referenced provisions.
  - (v) Remove existing sections that, whilst relevant and necessary, do not need to form part of the Constitution, including:
    - Monitoring Officer Protocol
    - Chief Finance Officer Protocol
    - Standards hearing arrangements
    - Code of Governance
    - Protocol for sponsorship of Lord Mayor's events

- (d) Add new sections to the Constitution, including:

- (i) Contract/Procurement Rules
- (ii) Community Rights
- (iii) Councillor Call for Action protocol
- (iv) Structure chart showing hierarchy of Executive and Non-Executive committees
- (v) Members' rights to access information
- (vi) Including all joint arrangements, e.g. Police and Crime Panel, Community Safety Partnership, etc.
- (vii) Statutory and Proper Officer table
- (viii) Local choice functions table
- (ix) Non-Executive and Executive schemes of officer delegation
- (x) Rules for recording and publishing officer decisions
- (xi) New senior management structure
- (xii) List of Cabinet portfolios and name the Cabinet members by whom they are exercisable
- (xiii) Revised Key Decision financial threshold
- (xiv) Dispensations protocol

(e) To respond to questions and reflect comments, suggestions and amendments from officers and members.

12. It should be noted that it was not the role or remit of this review to amend or update the existing codes and protocols contained within the Constitution, many of which, such as the Members' Code of Conduct, the Contract and Procedure Rules and the Officer Employment Rules, will be the subject of further work in the coming months by lead officers and brought forward to Council for approval and inclusion in the new Constitution in due course.

13. The outcome of the work of the Constitution Working Party was to recommend the revised Constitution (attached at **Appendix B**) to the Council for approval. The document contains a number of marginal comments throughout, which are there to highlight new insertions or to explain some of the key changes made. They will be removed once the document is approved and will not appear in the published version of the Constitution.

## **Timeline**

- 27 January - headline proposals discussed at informal Cabinet.
- Early February - headline proposals discussed at Group Leaders meeting.
- 3 February - headline proposals discussed at CLT.
- 5 and 19 February - Constitution Working Party worked through the proposals in detail.
- 3 March - Informal Cabinet signed off revised Constitution.
- 5 March – deadline for submission of Council report.
- 8 March – Council agenda published.
- 16 March – Council to approve revised Constitution.

## **Key Features of the Constitution**

### **Contents and Introduction**

14. The revised constitution is divided into clear sections. There is a detailed hyperlinked contents page, which allows the reader to go straight to the section they wish to see.

15. The current introduction and Articles have been simplified into a new easier to read introduction, setting out the status and purpose of the constitution, and the roles played by councillors, officers and members of the public. The Articles are not a legal requirement and repeat many of the points made elsewhere in the constitution and so have been removed to avoid duplication.

### **Responsibility for Functions**

16. This part of the constitution makes clear the distinction between executive and non-executive functions and sets out the respective delegations from Council and Cabinet to committees and officers. There are new comprehensive and consolidated schemes of officer delegation for both executive and non-executive functions, so that it is clear who is responsible for which functions.

17. An expanded section on the history and status of the Lord Mayor and Sheriff is included to mark the importance of these two positions.
18. There is included a diagram showing the council's committees and sub-committees, and each committee's membership and terms of reference are described in detail.
19. It also sets out those matters included in the Budget and Policy Framework that are reserved for Full Council to decide, usually on the recommendation of the Cabinet.
20. Review of scrutiny included clearly stating the role of overview and scrutiny committees to make the decision-making process more transparent, accountable and inclusive. In order for scrutiny to be effective, the process must be open, fair, constructive and positive. This section sets out the structure and procedures of the overview and scrutiny committees, including call-in arrangements. A new section has been included on the councillor call for action.
21. There are also a number of 'local choice' functions that the council can decide to either assign to the Cabinet or to exercise itself or delegate to a committee or a named officer. The council has discretion as to how best to organise these matters and they now form part of a table in the constitution.
22. The current constitution lacks a consolidated scheme of officer delegations. There is a new list of those officers who have statutory or Proper Officer functions delegated to them under various pieces of legislation.
23. A new protocol for Recording and Publishing Officer Decisions has been included, to ensure compliance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and the Openness of Local Government Bodies Regulations 2014.
24. The council's joint arrangements have been revised and updated to include a number of arrangements that were not previously included.

### **Rules governing how the Council operates**

25. The council's Procedure Rules constitute an essential instrument for the smooth operation of the authority. The rules guide the conduct of both Cabinet and Council meetings and meetings of their committees and sub-committees. These rules have been reviewed to ensure they comply with:
  - (a) Schedule 12 of the Local Government Act 1972
  - (b) Sections 8 and 20 of the Local Government and Housing Act 1989
  - (c) Local Authorities (Standing Orders) Regulations
  - (d) Local Government Act 2000 Mandatory Standing Orders

## **Codes and Protocols**

26. This section of the constitution has been updated to include the following new additions:

- (a) Access to Information Rules, setting out the rights and circumstances in which members of the council and the public may access different types of information
- (b) A list of the five statutory 'Community Rights'.
- (c) Dispensations Protocol – to govern the award of dispensations that would otherwise prevent a member with a Disclosable Pecuniary Interest from taking part in a debate

## **Appendices attached**

Appendix A – Secretary of State's minimum constitutional requirements.

Appendix B – Revised constitution

## Integrated impact assessment



**NORWICH**  
City Council

### Report author to complete

<b>Committee:</b>	Council
<b>Committee date:</b>	16 March 2021
<b>Director / Head of service</b>	Monitoring officer
<b>Report subject:</b>	Constitution review
<b>Date assessed:</b>	1 March 2021



	Impact			
<b>Economic (please add an 'x' as appropriate)</b>	<b>Neutral</b>	<b>Positive</b>	<b>Negative</b>	<b>Comments</b>
<b>Finance (value for money)</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Other departments and services e.g. office facilities, customer contact</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>ICT services</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Economic development</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Financial inclusion</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Social (please add an 'x' as appropriate)</b>	<b>Neutral</b>	<b>Positive</b>	<b>Negative</b>	<b>Comments</b>
<b>Safeguarding children and adults</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b><u>S17 crime and disorder act 1998</u></b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Human Rights Act 1998</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Health and well being</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

	Impact			
Equality and diversity (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Relations between groups (cohesion)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Eliminating discrimination & harassment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Advancing equality of opportunity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Environmental (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Natural and built environment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Waste minimisation & resource use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Pollution	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sustainable procurement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Energy and climate change	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(Please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Risk management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

<b>Recommendations from impact assessment</b>
<b>Positive</b>
<b>Negative</b>
<b>Neutral</b>
<b>Issues</b>

## APPENDIX A

### Secretary of State's minimum constitutional requirements

1.	A summary and explanation of the purpose and content of the constitution
2.	A description of the composition of the council, the scheme of ordinary elections for members of the council and their terms of office
3.	A description of the principal roles and functions of the members of the council under executive arrangements, including the rights and duties of those members
4.	The scheme of allowances for members of the authority drawn up in accordance with regulations made under s.18 of the Local Government and Housing Act 1989
5.	A description of the rights and responsibilities of inhabitants of the authority's area including: <ul style="list-style-type: none"><li>i. their rights to vote in elections for the return of members of the authority</li><li>ii. their rights to access to information about the authority's activities</li><li>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</li><li>iv. their rights of access to meetings of the executive and committees of the executive</li></ul>
6.	A description of the roles of the authority itself under executive arrangements, including: <ul style="list-style-type: none"><li>i. the functions which may be exercised only by full Council or which may to some extent be exercised only by full Council (including, in the case of a local authority operating executive arrangements, any plans and strategies which are subject to approval or adoption by full Council by virtue of reg.5 and Sch.4 para.1 of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000) and</li><li>ii. any rules governing the conduct and proceedings of meetings of full Council, whether specified in the authority's standing orders or otherwise</li></ul>
7.	A description of the roles and functions of the chairman of the council (Lord Mayor)
8.	A description of the functions of the local authority executive which are exercisable by individual members of the executive stating, as respects each function, the name of the member by whom it is exercisable
9.	A description of the functions of the local authority executive that 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
10.	A description of those powers of the executive which for the time being are exercisable by an officer, stating the title of the officer by whom each of the powers so specified is exercisable, other than any power exercisable by the officer for a specified period not exceeding six months
11.	A description of the arrangements for the operation of overview and scrutiny committees, including: <ul style="list-style-type: none"> <li>i. the terms of reference and membership of those committees and any rules governing the exercise of their functions and</li> <li>ii. any rules governing the conduct and proceedings of meetings of those committees, whether specified in the authority's standing orders or otherwise</li> </ul>
12.	A description of the roles of the executive, committees of the executive and members of the executive including: <ul style="list-style-type: none"> <li>i. the roles, functions, rights, responsibilities and duties of members of the executive</li> <li>ii. in the case of a leader and cabinet form of executive, any rules governing the election of the executive leader</li> <li>iii. any rules governing the appointment or dismissal of members of the executive</li> <li>iv. any provisions in the executive arrangements with respect to the quorum, proceedings and location of meetings of the executive</li> <li>v. any provisions in the executive arrangements with respect to the quorum, proceedings and location of meetings of any committees of the executive</li> <li>vi. any provisions in the executive arrangements with respect to the appointment of committees of the executive</li> </ul>
13.	A description of the roles of any committees or sub-committees appointed by the authority in accordance with s.101 of the Local Government Act 1972, including: <ul style="list-style-type: none"> <li>i. the membership, terms of reference and functions of such committees or sub-committees and</li> <li>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</li> </ul>
14.	A description of those powers of the council which for the time being are exercisable by an officer, stating the title of the officer by whom each of the powers so specified is exercisable, other than any power exercisable by the officer for a specified period not exceeding six months
15.	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 ss.53 or 55 of the Act, including:

	<ul style="list-style-type: none"> <li>i. the membership, terms of reference and functions of that committee or sub-committee and</li> <li>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</li> </ul>
16.	<p>A description of the roles of any area committees appointed by the authority to exercise functions in accordance with reg.16A of the Local Government (Committees and Political Groups) Regulations 1990 or, as the case may be, s.18 of the Act and the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000, including:</p> <ul style="list-style-type: none"> <li>i. the membership, terms of reference and functions of such committees and</li> <li>ii. any rules governing the conduct and proceedings of meetings of those committees, whether specified in the authority's standing orders or otherwise</li> </ul>
17.	<p>A description of any joint arrangements made with any other local authorities under s.101(5) of the Local Government Act 1972, including:</p> <ul style="list-style-type: none"> <li>i. the terms of those arrangements</li> <li>ii. the membership, terms of reference and functions of any joint committees established under those arrangements and</li> <li>iii. any rules governing the conduct and proceedings of meetings of those joint committees, whether specified in the authority's standing orders or otherwise</li> </ul>
18.	<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 s.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</p>
19.	<p>A description of the roles of officers of the local authority, including:</p> <ul style="list-style-type: none"> <li>i. the management structure for officers of the authority</li> <li>ii. any arrangements made under s.101 of the Local Government Act 1972 or, as the case may be, ss.14, 15 or 16 of the Act for the discharge of functions by officers of the authority</li> <li>iii. the roles and functions of the head of paid service, monitoring officer and chief finance officer</li> <li>iv. the code of conduct for local government employees issued by the Secretary of State in accordance with s.82 of the Act</li> <li>v. any rules governing the recruitment, appointment, dismissal and disciplinary action of officers of the authority</li> <li>vi. any protocol established by the authority in respect of relationships between members and officers</li> </ul>
20.	<p>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</p>

	authority, committees and sub-committees, joint committees established with any other local authority, the executive and committees of the executive
21.	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
22.	A register stating: <ul style="list-style-type: none"> <li>i. the name and address of every member of the local authority executive for the time being and the division (if any) which they represent and</li> <li>ii. the name of every member of each committee of the local authority's executive for the time being</li> </ul>
23.	A description of the rules and procedures for the management of its financial, contractual and legal affairs, including: <ul style="list-style-type: none"> <li>i. procedures for auditing the local authority;</li> <li>ii. the local authority's financial rules or regulations, whether specified in the authority's standing orders or otherwise;</li> <li>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</li> <li>iv. rules and procedures in respect of legal proceedings brought by and against the local authority</li> </ul>
24.	A description of the register of interests of members and co-opted members of the authority required under s.81 of the Act, together with the procedures for publicising, maintaining and updating that register
25.	A description of the rules and procedures for review, revision, suspension and interpretation of the authority's constitution and executive arrangements
26.	The Code of Conduct for Members