

# Constitution Sub-Committee

---

<b>Date of Meeting:</b>	3 <sup>rd</sup> November 2017
<b>Report of:</b>	Acting Director of Legal Services & Monitoring Officer
<b>Subject/Title:</b>	Review of the Constitution – Principles

---

## 1.0 Report Summary

- 1.1 This report presents to the Sub-Committee mechanisms to ensure the revised Constitution is concise and future-proof.
- 1.2 It also sets out an approach to highlighting substantive changes to the Constitution for consideration.

## 2.0 Recommendations

- 2.1 That the Constitution Sub-Committee recommends that the Constitution Committee on 30<sup>th</sup> November 2017 approves:
  - 2.1.1 The overall proposed approach to hyperlinking as set out in the Bevan Brittan Advice Note (attached at Appendix A)
  - 2.1.2 A specific approach in response to each question identified in the Bevan Brittan Summary Table of Sections/Documents to come out of the Constitution (attached at Appendix B), those being:
    - Q1. Terms of Reference of Committee Chairmen
    - Q2. Whistleblowing Policy
    - Q3. Planning Protocol of Conduct in relation to the determination of planning matters
    - Q4. Protocol on Public Speaking Rights at Strategic Planning Board and Planning Committee
    - Q5. Local Ward member Protocol
  - 2.1.3 Subject to 2.1.2 above, the proposals set out in Appendix B
  - 2.1.4 The approach to highlighting substantive changes to the Constitution to Members, as set out in the Detailed Proposals below.

## 3.0 Reasons for Recommendations

- 3.1 To implement the decision of the Constitution Committee on 4<sup>th</sup> August 2017.

## 4.0 Detailed Proposals

- 4.1 Work Package 1 of the Review covered the structure and format of the new Constitution. This Work Package was approved by the Constitution Sub-Committee on 15<sup>th</sup> September 2017
- 4.2 One key principle of the review, as recommended by Bevan Brittan and approved by Constitution Committee, has been to “be concise, covering only those essential issues which need to be in the formal Constitution and sign-posting to other documents and sources.”
- 4.3 Bevan Brittan has further explained in more detail how this will work in practice – including the use of ‘hyperlinking’ and the status and ownership of each hyperlinked document in the proposed revised Constitution – and this is set out in detail in a separate Advice Note (see Appendix A).
- 4.4 This includes a schedule that sets out those sections/documents that are being proposed to come out of the Constitution, and suggestions for the appropriate ownership and review processes for each one (see Appendix B). Where a choice is identified, this is highlighted as an individual question, for which the Sub-Committee’s response is sought.
- 4.5 In addition, much feedback has been received on the most appropriate mechanism for highlighting changes from the existing Constitution to the new revised document, including a request for ‘tracked changes’ In this regard, we have also taken the advice of Bevan Brittan and this is set out below:

*“The redrafted Constitution, whilst taking much of the content from the current one, is a significantly changed document, especially in terms of its layout. This is intentional, and in keeping with the agreed principles of the review approved by Constitution Committee on 4<sup>th</sup> August 2017, in particular that it:*

- *support, not hinder, the efficient exercise of democratic decision-making, good governance and the delivery of services*
- *be concise, covering only those essential issues which need to be in the formal Constitution and sign-posting to other documents and sources*
- *be modern in its language, format and presentation*

*To achieve this has required a significant restructuring and editing of repetitious, superfluous or outdated content.*

*As such, a large part of the New Constitution is essentially a new document, not an amended one, and the facility to ‘track all changes’ does not lend itself to this kind of rewrite; it is difficult, if not impossible, to use the ‘tracked changes’ functionality within Microsoft Word and attempts to highlight these changes manually – through notation, highlighting, colour-coding or other methods – often obscure rather than enlighten, when trying to review the new material.*

*With these sections we would not recommend such an approach, but propose that we will bring to the attention of Members the substantive areas of change within an Explanatory Note.*

*Where there are parts of the New Constitution where the substance of the document remains similar to the original, in those cases, we agree it would be helpful to produce a delta view version for Members – this produces a document which compares the original document with the new one and highlights changes in colour. As the review progresses and changes are agreed (subject to final sign off by Council), we can identify which parts of the new document lend themselves to this approach and can produce the comparisons to assist Members.”*

*Bethan Evans, Partner, Bevan Brittan LLP*

4.6 The Sub-Committee endorsed this approach at its meeting on 15<sup>th</sup> September 2017, where it resolved that:

- Officers be permitted to use their discretion (this to be exercised with caution) in bringing to the attention of the Sub Committee only matters of substance when constitutional changes are proposed.

4.7 As such, we propose to:

- Draw attention to all substantive changes (exercising caution) in the Explanatory Note (List of Substantive Changes) that accompanies each Work Package, in three categories:
  - Section I – Substantive changes required by law for approval (although these will be minimal as the original Bevan Brittan review confirmed that the Constitution was compliant)
  - Section II – Substantive changes based on best practice recommended for approval
  - Section III – Substantive changes for consideration by the Sub-Committee
- Provide printed copies of both the existing Constitution and the revised Constitution to any Member that requests them
- Highlight any specific changes (with page number references for both documents) as requested by Members on a case-by-case basis, if these are not immediately apparent and/or incorporated within the Explanatory Note (List of Substantive Changes).

## **5.0 Wards Affected and Local Ward Members**

5.1 All wards are affected.

## **6.0 Policy Implications**

6.1 Policy Implications are unchanged from the position set out in the report to Constitution Committee on 4<sup>th</sup> August 2017.

**7.0 Access to Information**

7.1 The Constitution Committee papers of 4<sup>th</sup> August 2017 and 5<sup>th</sup> October 2017 relate.

**8.0 Contact:**

Name: Daniel Dickinson

Designation: Acting Director of Legal Services & Monitoring Officer

Tel No: 01270 685814

Email: [daniel.dickinson@cheshireeast.gov.uk](mailto:daniel.dickinson@cheshireeast.gov.uk)