

**Open Report on behalf of Richard Wills, Director responsible for Democratic Services**

Report to:	<b>County Council</b>
Date:	<b>24 February 2017</b>
Subject:	<b>Amendments to the Constitution</b>

**Summary:**

This report seeks Council approval for:

- 1) amendments to the Constitution with effect from 1 May 2017 triggered by decisions of Council in December 2016 regarding the restructure of the authority's scrutiny arrangements;
- 2) amendments to the role description of the Chief Whip with immediate effect and
- 3) amendments to Article 9 and Part 3, regarding functions and areas of responsibility of Chief Officers with immediate effect.

**Recommendation(s):**

That the Council approves the amendments to the Council's Constitution set out in the Appendix to this report.

## **1. Background**

1.1 The Council at its meeting on 18 December 2016 agreed a new scrutiny structure to take effect from 1 May 2017, following a review of the Council's scrutiny arrangements.

1.2 At the same meeting Council agreed to receive a further report on the resultant changes to the Constitution, required to reflect, among other things, the committees' new terms of reference.

1.3 The amendments triggered by the committee restructure are set out in Appendix A as tracked changes coloured red.

1.4 In addition the Chief Whip, in discussion with the Monitoring Officer, has requested that the role description of the Chief Whip be amended to more accurately reflect the role. The proposed amendments are set out in Appendix A on page 4/56 as tracked changes coloured blue.

1.5 Furthermore the current Report provides an opportunity to reallocate the delegations to the Chief Executive relating to the role of Chief Information and Commissioning Officer in anticipation of the post-holder's imminent departure. The delegations relate to the areas of information management and technology and communications and have been allocated to the Executive Director for Environment and Economy in accordance with the realignment of chief officer responsibilities. The relevant amendments to Article 9 and Part 3 of the Constitution are shown as tracked changes coloured blue on pages 2/45, 3/21 and 3/37 in Appendix A.

1.6 These amendments include identifying the Executive Director for Environment and Economy as the Senior Information Risk Owner (SIRO) for the Council. This is not a statutory role but is advised by the Department for Communities and Local Government and the Information Commissioner. The SIRO is the officer responsible across the whole Council for Information Governance and should be a member of the corporate management board.

1.7 The recommendations require changes to the Council's Constitution and therefore require approval by full Council.

## **2. Legal Issues:**

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

There are no implications in relation to equality issues from approval of the changes to the constitution.

#### Joint Strategic Needs Analysis (JSNA and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision.

There are no implications for the JSNA or JHWS in relation to approval of the changes to the constitution.

#### Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

There are no implications in relation to Crime and Disorder from approval of the changes to the constitution.

### **3. Conclusion**

3.1 When adopting the new scrutiny structure with effect from 1 May 2017, Council also requested that it received a report on the resultant changes to the Constitution.

3.2 Furthermore there has been a request for a review of the Chief Whip's role description.

3.3 Changes to the senior management structure have also impacted on the activities, responsibilities and powers of members of the Corporate Management Team, which are required to be reflected in the Constitution.

**4. Legal Comments:**

The proposed changes to the constitution are lawful. The function of agreeing and/or amending the Constitution is reserved to the full Council. The decision is therefore within the remit of the full Council.

**5. Resource Comments:**

There are no financial implications arising from acceptance of the recommendation in this report.

**6. Consultation**

**a) Has Local Member Been Consulted?**

n/a

**b) Has Executive Councillor Been Consulted?**

n/a

**c) Scrutiny Comments**

n/a

**d) Have Risks and Impact Analysis been carried out?**

No

**e) Risks and Impact Analysis**

Any potential risk would be monitored by officers.

**7. Appendices**

These are listed below and attached at the back of the report

Appendix A	Proposed amendments to the Constitution
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**8. Background Papers**

Document	Where available
Report on scrutiny structure to Council on 16 December 2016	Council's website and Democratic Services

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