



**Open Report on behalf of David Coleman, Monitoring Officer**

Report to:	<b>County Council</b>
Date:	<b>17 September 2021</b>
Subject:	<b>Amendments to the Council's Constitution</b>

**Summary:**

This report proposes amendments to the Council's Constitution relating to Ruling and Opposition Groups together with proposed arrangements for opposition in the current circumstances where there is more than one group with the second largest number of members.

It also invites the Council to note the arrangement in respect of the position of Leader of the Opposition for the period between 17 September 2021 and the next Annual Meeting of the Council

**Recommendation(s):**

That the Council

- 1) Approves the amendments to the Council's Constitution set out in Appendix A;
- 2) Recognises the Labour Group and the Independent Group as the Opposition in accordance with Article 3.05 of the Constitution as amended in Appendix A;
- 3) Notes the nomination of Cllr Robert Parker as Leader of the Opposition for the period between 17 September 2021 and the next Annual Meeting of the Council

**1. Background**

As currently drafted Article 3.05 of the Council's Constitution recognises the second largest political Group on the Council as the Opposition Group and the leader of that Group as the Leader of the Opposition.

On two occasions recently there has been no single second largest group on the Council and that is the current position with both the Labour Group and the Independent Group having four members.

At its last meeting on 21 May 2021 the Council recognised the Labour Group as the Opposition Group under Article 3.05 until the next meeting of the Council pending a review of the constitutional processes relating to the Opposition Group and discussions between the Leader of the Independent Group and Labour Group.

Further discussion has taken place and there was agreement that the Constitution needs to make provision for the situation where there is more than one group with the second largest number of seats and that that provision should allow for a reasonable degree of flexibility for those groups to come to an arrangement as to how they would arrange matters between themselves to enable effective opposition.

As a result the amendments to the Constitution attached at Appendix A are proposed.

Under the amended Constitution the second largest group will continue to be the Opposition where there is such a group and the leader of that group will continue to be the Leader of the Opposition.

The proposed amendments only apply during any period in which there is not one single group with the second largest number of seats.

Where there is an equality of seats the amendments in Appendix A still make it a matter for the Council to recognise the Opposition. However the changes remove the requirement for Council to recognise a single group and allow for recognition of a combination of those groups with the second largest number of seats.

Where this is the case the changes deal with two other issues.

Firstly the changes would allow the Shadow Executive to be appointed from across the membership of the groups that have come together to form the Opposition. Secondly the changes deal with the position of the Leader of the Opposition.

This is a position which has a relatively limited but specific role within the Council's Constitution. In particular the Leader of the Opposition:-

- Appoints the Shadow Executive
- Is consulted when the use of special urgency provisions is being contemplated under paragraph 17 of the Access to Information Procedure Rules in Part 4 of the Constitution; and
- Is consulted when the Head of Paid Service is considering whether to rule out call-in on the grounds of urgency under paragraph 15(i) of the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution

The changes to the Constitution seek to balance flexibility in allowing a combination of groups in Opposition to rotate the leadership position with ensuring a degree of certainty to enable these important constitutional provisions to operate.

The amendments therefore propose that the position of Leader of the Opposition would be nominated by the leaders of the groups forming the Opposition and would have in effect a term of office of a year taking effect from the Annual Meeting. This reflects the current arrangements for the Leader of the Council to inform the Annual Meeting of the Council of appointments to the Executive.

In light of the above changes relating to the Opposition Group, the opportunity has also been taken to review and introduce greater certainty into the provisions within Article 3.05 relating to the Ruling Group.

To ensure clarity in relation to the Leader of the Opposition for the period prior to the next Annual Meeting, Council is asked to note that Cllr Robert Parker is nominated by the leaders of the Labour and Independent Groups to be the Leader of the Opposition during that period.

## **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 not considered to be any Equality Act implications arising out of the subject matter of the Report

#### 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.

The JSNA and JHWS have been considered and there is no direct implication for either arising out of this decision.

#### 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.

The section 17 matters have been considered and there is no direct implication for those matters arising out of this decision.

### **3. Conclusion**

The Report seeks approval for a number of changes to the Constitution to clarify and introduce greater flexibility in relation to the formation of an effective opposition where

more than one political group has the second largest number of seats on the Council with provision being made for the appointment of the Shadow Executive and the identification of a Leader of the Opposition.

The Report also proposes arrangements for opposition between the Labour Group and the Independent Group and Council is invited to recognise these arrangements pursuant to the amended Constitution.

**4. Legal Comments:**

The approval of amendments to the Constitution is reserved to full Council.

There are no legal implications of the changes of which the Council needs to be aware. The constitutional implications of the changes are dealt with in the Report.

**5. Resource Comments:**

Accepting the recommendation within the report, should have no material impact on the approved budget of the council.

**6. Consultation**

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

N/A

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

N/A

**c) Scrutiny Comments**

N/A

**d) Risks and Impact Analysis**

See the body of the Report

**7. Appendices**

These are listed below and attached at the back of the report	
Appendix A	Extract of Part 2 of the Constitution – Articles of the Constitution

## 8. Background Papers

Document title	Where the document can be viewed
The Council's Constitution	<a href="http://modern.gov.co.uk">Agenda for Constitution on Friday, 21st May, 2021 (modern.gov.co.uk)</a>

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