

## BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

<b>From: Interim Assistant Director – Law and Governance and Monitoring Officer</b>	<b>Report Number: C/40/16</b>
<b>To: Babergh District Council Mid Suffolk District Council</b>	<b>Date of meeting: 28 June 2016 Date of meeting: 29 June 2016</b>

### CONSTITUTIONAL UPDATE – PHASE 1

#### 1. Purpose of Report

- 1.1 To provide the Council with an update on the progress being made with regard to updating the Council's Constitution, which also forms part of the on-going Strengthening Governance review.
- 1.2 To ask that Council approve the recommendation as set out below.

#### 2. Recommendation

- 2.1 That the Constitution attached at Appendix A be adopted.

#### 3 The Joint Strategic Plan

The core of an Enabled and Efficient organisation is Good Governance. The Constitution is a key document reflecting the strength in our Governance.

#### 4 Background and Key Information

- 4.1 The Council as part of its on-going Strengthening Governance review earlier this year, established a Members Task and Finish group consisting of the following Councillors:-

##### **BDC**

Jennie Jenkins  
Simon Barrett  
Clive Arthey  
Sue Carpendale  
Margaret Maybury

##### **MSDC**

Derrick Haley  
Nick Gowrley  
Andrew Stringer  
Penny Otton  
John Levantis

- 4.2 The Group, as part of its work programme, discussed and considered the current Constitution and have indicated its approval for the Monitoring Officer to make non-substantive housekeeping changes.
- 4.3 In April Council granted the Monitoring Officer a delegation to carry out relevant housekeeping changes to the current Constitution, (to be exercised after consultation with Lead Members; the Monitoring Officer explained at Council by this she meant the Members of the above Task and Finish group and where appropriate any other Councillors such as Chairs of Committees).

- 4.4 At a recent meeting of the Task and Finish group a revised Constitution was circulated highlighting the housekeeping changes made.
- 4.5 At this stage of the Constitution review only non-substantive changes have been made for example, where necessary legislative changes have been carried out, unnecessary duplication has been removed, some changes to the Procedure Rules have been made to reflect statutory requirements and some visuals have been inserted.
- 4.6 The attached Constitution has also been reformatted to be user friendly, it will be easier to amend and is compatible with the web and mobile devices. The functions and terms of reference of Committees have been re-ordered so that they sit together under the same section. For example, Article 8 incorporated the terms of reference of the Joint Standards Board with Suffolk County Council, which now have been moved to Part 2 of the Constitution that describes the responsibility of the Council and its Committees.
- 4.7 Some of the Articles have also been simplified and/or removed where not relevant. In addition to this some Protocols, Schemes and Appendices that are not required by law or necessary have also been removed but these will be available on the Council's website for example, the Members Allowances Section, the Compliments/Complaints Policy, the Petitions and Public Participation Scheme, the Filming/Videoring guidance and the Whistleblowing Policy. The Planning Charter will also be available on the website. The implication of removing these documents from the body of the Constitution does not lessen their importance or weight in law.
- 4.8 Moving forward, there will be further (Phase 2) changes suggested that will be brought back to Council for approval.

## **5. Financial Implications**

- 5.1 None.

## **6. Legal Implications**

- 6.1 Local Government Acts 1972 and 2000 (as amended) require all Local Authorities to have in place and maintain an updated written Constitution.
- 6.2 A Local Authority must prepare and keep up to date a document (referred to as its Constitution), which contains –
- (i) a copy of the authority's Standing Orders (to govern the general function of that authority).
  - (ii) to maintain Contract Standing Orders
  - (iii) a copy of the authority's Code of Conduct for Members (under section 28 of the Localism Act 2011),
  - (iv) such information as the Secretary of State may direct, and
  - (v) such other information (if any) as the Authority considers appropriate.
- 6.3 The Council could be judicially reviewed if Councillors take decisions, which are contrary to published policy, protocols and procedures and therefore, Councillors should still be aware of and adhere to the documents, which have been removed from the Constitution.

6.4 The policies, protocols and procedures will still need to be kept under review by the Council's Monitoring Officer.

## 7. Risk Management

7.1

Risk Description	Likelihood	Impact	Mitigation Measures
It is a high risk not to regularly review the Constitution and ensure it reflects current practice and Legislation.	Unlikely	Bad	As a core tenet of good governance the Council keeps its Constitution under regular review and amends it, both to reflect experience and changing circumstances.

## 8. Equality Analysis

8.1 There are no immediate equality issues.

## 9. Shared Service / Partnership Implications

9.1 The new Constitution has been implemented on the basis that the Constitution should be aligned across both Councils as far as possible.

## 10. Appendices

Title	Location
Appendix A – Constitution	Attached

## 11. Background Documents

11.1 None.

### Authorship:

Suki Binjal  
Interim Assistant Director – Law and  
Governance and Monitoring Officer

01473 825811 or 01449 724854  
[suki.binjal@baberghmidsuffolk.gov.uk](mailto:suki.binjal@baberghmidsuffolk.gov.uk)