

## BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

<b>From: Interim Head of Law and Governance and Monitoring Officer</b>	<b>Report Number: S7</b>
<b>To: BDC Council MSDC Council</b>	<b>Date of meeting: 26 April 2016 Date of meeting: 28 April 2016</b>

### CONSTITUTIONAL UPDATE

#### 1. Purpose of Report

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

#### 2. Recommendation

- 2.1 That the Council agree to update the Constitution as set out in paragraphs 4.3 and 4.4 of this report and delegates the changes to be carried out by the Monitoring Officer and, that the delegation will be exercised after consultation with the Lead Members.

#### 3. The Joint Strategic Plan

The proposed changes to the Constitution are the first steps towards the Council being able to continue to deliver at pace the priorities, and achieve the outcomes set out in the refreshed 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 ongoing Strengthening Governance review earlier this year, established a Members working group consisting of the following Councillors:-

##### **BDC**

Jennie Jenkins  
Simon Barrett  
Clive Arthey  
Sue Carpendale  
Peter Burgoyne

##### **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 order to make swift progress and to be able to move forward with these changes the Monitoring Officer seeks a delegation (to be exercised after consultation with Lead Members) to carry out the relevant housekeeping changes. For example, reflecting Legislative changes, removing duplication, to make changes in line with good and improved practice, to update terminology, to carry out changes to the Procedure Rules, and where possible, to insert visuals and to remove some protocols from within the Constitution that are either not required by law or necessary.

4.4 There is no legislative requirement for the following to be included within a Council's Constitution:-

Part 5

- Planning Charter
- Code of Conduct for Employee
- Protocol on Members/Staff Relations
- Monitoring Officer Protocol

Part 6

- Members Allowances Section

Part 7

- Petitions Scheme
- Public Participation
- Filming/Videoing
- Compliments/Complaints
- Whistleblowing

Therefore, the Monitoring Officer recommends that these documents form part of the Council's protocols and procedures as standalone documents (which will be available on the Council's website).

4.5 The implication of removing these documents does not lessen their importance, or weight in law.

4.6 On completion of the proposed changes the Monitoring Officer will re-issue and/or make available a clean copy of the revised Constitution to all Members of the Council.

4.7 Moving forward, any substantive changes to the Constitution that might arise out of the Strengthening Governance review will be brought back to Council for further 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 It is a high risk not to regularly review the Constitution and ensure it reflects current practice and Legislation.

## **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. Background Documents**

- 10.1 None.

### **Authorship:**

Suki Binjal  
Interim Head of Law and Governance and  
Monitoring Officer

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