

## BABERGH DISTRICT COUNCIL

<b>From: Interim Assistant Director – Law and Governance and Monitoring Officer</b>	<b>Report Number: S72</b>
<b>To: Babergh District Council</b>	<b>Date of meeting: 31 October 2016</b>

### CONSTITUTIONAL UPDATE

#### 1. Purpose of Report

- 1.1 To consider as part of the review of the Constitution, the revised Rules of Procedure for Council, Committee and Sub-Committee meetings and to approve the recommendations set out below.

#### 2. Recommendations that Council

- 2.1 Agree to adopt Appendix A attached to this report as the revised Procedure Rules for Council, Committee and Sub-Committee meetings (to replace pages 74 to 99 - Part 3 of the Council's Constitution) and
- 2.2 Agree to delegate responsibility to the Monitoring Officer to carry out any consequential changes to the Constitution that will be necessary following approval of recommendation 2.1 above.

#### 3. Links to Joint Strategic Plan

- 3.1 The core of an Enabled and Efficient organisation is Good Governance. The Constitution is a key document reflecting the strength of our Governance.
- 3.2 It is recognised that the purpose of the Constitution is to set out clearly how the Council operates, how decisions are made and the procedures it follows to ensure it is well organised, transparent and accountable to local people

#### 4. Financial Implications

- 4.1 None.

#### 5. Legal Implications

- 5.1 Local Government Acts 1972 and 2000 (as amended) require all Local Authorities to have in place and maintain an updated written Constitution.
- 5.2 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. Risk Management

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 will keep its Constitution under regular review and amend it, both to reflect experience and changing circumstances.

## 7. Equality Analysis

7.1 There are no immediate equality issues.

## 8. Shared Service / Partnership Implications

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

## 9. Background and Key Information

9.1 The Council as part of its on-going Strengthening Governance review, earlier this year established a 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

9.2 In June 2016, Council granted approval for further changes to be carried out to the Constitution under a delegation given to the Monitoring Officer. Accordingly, the Task and Finish group have continued to review the Constitution and since June has been focusing on revising the Council Procedure Rules (contained in Part 3 of the Constitution pages 74 to 99).

9.3 Following a session of the Task and Finish group held on the 10 October 2016, the group requested that a suite of revised documents highlighting the changes be circulated to all Councillors for their consideration and comments to be sent via Group Leaders to the Monitoring Officer.

9.4 The revised Council Procedure Rules (hereinafter referred to as the Rules), are attached as Appendix A to this report incorporating relevant comments and suggestions received.

- 9.5 The changes include an insertion of a glossary of terms used in Council meetings and flowcharts illustrating the process of dealing with Motions/Propositions including amendments. In addition to the new insertions, the Rules for Council and Committee meetings have been separated; a set of Rules relating solely to Council meetings and a set of Rules for Committee and Sub Committees meetings.
- 9.6 The Rules have also been revised and re-ordered to reflect good practice to provide clarity and to establish consistency. For example, currently the Rules have a reference to be able to hold a (secret) ballot which has now been removed as it undermines the principles of openness and transparency.
- 9.7 The current Rules vary with regard to the required notices for receipt of a motion on notice, questions from either a member of the public and/or Councillors, ranging from two to seven days. In order to provide consistency and to avoid confusion it has been suggested that all relevant notices are changed where possible to reflect the legal requirement of publishing agendas and papers to five clear working days. Required notices relating to items on a published agenda are now also consistent and where possible have been revised from two to three clear working days.
- 9.8 The Rules have been reviewed and revised to provide clarity to overcome the current cumbersome procedural issues which at times can be difficult to follow. For example, it can become difficult to distinguish between political debate and asking questions in Council meetings which also differs in Committee meetings.

**10. Delegation to the Monitoring Officer**

- 10.1 The Monitoring Officer seeks a delegation to carry out any consequential changes that will be required to put into effect the Council decision (set out in paragraph 2 of this report), without a referral back to Council as required under Article 12 of the Constitution.
- 10.2 As a result of approving Appendix A there will be a knock on effect on other parts of the Constitution. For example, a relevant explanatory paragraph will need to be inserted in the summary and explanation section. Relevant links, numbering and punctuation changes in the new iteration will need to be carried out before a revised Constitution is placed in the public domain.

**11. Appendices**

Title	Location
Appendix A - Revised Procedure Rules for Council, Committee and Sub-Committee meetings to replace current pages 74 to 99 contained in Part 3 of the Council’s Constitution.	Attached

## 12. Background Documents

None.

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