

BABERGH DISTRICT COUNCIL

From: Monitoring Officer	Report Number: S132
To: Babergh District Council	Date of meeting: 25 April 2017

ADOPTION OF REVISED CONSTITUTION

1. Purpose of Report

1.1 The purpose of this report is to obtain the Council's agreement to adopt the revised constitution. The constitution has been amended to reflect the decision by Babergh District Council to implement the leader-cabinet model of governance.

2. Recommendation that Council

2.1 Adopts the revised Constitution, as detailed in Appendices A and B.

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 There are no financial consequences of adopting these revisions to the Constitution.

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 raised by this recommendation.

8. Shared Service / Partnership Implications

8.1 As far as possible constitutions of Babergh and Mid Suffolk District Councils have been aligned.

9. Key Information

9.1 Babergh District Council agreed to adopt the Leader-Cabinet model of governance at its meeting on 20 December 2016. This means that the Council will, at its annual meeting, elect a leader who will in turn appoint between two and nine other councillors to form a Cabinet. Decision making will be split between Council and Cabinet. Regulatory functions will still be exercised in the same way under this model.

9.2 In order to operate within this governance structure, it is necessary to make a number of changes to the Council's constitution. These changes are primarily concerned with the Council and Cabinet procedural rules, the responsibility of functions, the scheme of delegations, the financial regulations and contract standing orders. There are additional consequential amendments throughout the constitution to replace references to the Executive Committee with the Cabinet.

9.3 The schedule attached as Appendix A details the changes made throughout the constitution. A full copy of the proposed constitution can be viewed electronically on the Council's intranet and internet, via the link in Appendix B.

9.4 The Strengthening Governance Task and Finish Group has been consulted on the approach to the constitution review and has had early sight of the amended constitution. The Senior Leadership Team and other officers have also been consulted on the changes, particularly in relation to the officer scheme of delegations.

- 9.5 The Joint Staff Consultative Committee and the Joint Health and Safety Committee have been removed from the Council's constitution. The Chief Executive is currently reviewing how decision-making and engagement in these areas can best be achieved in the future, for example through a councillor/officer advisory board. The Joint Member Integration Board (JMIB) has also been removed as its primary aim was to support the integration process.
- 9.6 The Monitoring Officer is required to undertake annual reviews of the constitution. It is proposed that this function is allocated to the Joint Audit and Standards Committee and that the constitution is reviewed section by section on a rolling basis, with any compulsory changes being dealt with on an ad hoc basis. The Joint Audit and Standards Committee will make any recommendations for changes to the constitution to full Council for approval. This will result in a complete review of the constitution being concluded at least every five years.

10. Appendices

Title	Location
Appendix A – Schedule of Amendments to the Constitution	Attached
Appendix B – Full copy of the proposed Constitution	Online

11. Background Documents

None.

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Appendix A - Schedule of changes to the constitution

Page 4	What's in the constitution? Article 4 now refers to Full Council Article 6 now refers to Overview and Scrutiny committee Article 7 is new refers to the Cabinet Article 8 Regulatory committees Article 9 The Babergh and Mid Suffolk Joint Standards Committee Article 10 Joint Arrangments Article 11 Officers Article 12 Decision Making Article 13 Finance, Contracts and Legal Matters Article 14 Review and Revision of the Constitution Article 15 Suspension interpretation and publication of the constitution
Page 5	How the Council Operates Additional information regarding a Leader and Cabinet style of local government, and the forward plan. Additional information regarding full council under a leader and Cabinet Style of Local government.
Page 6	Continuation information regarding full council under and Leader and Cabinet Style of Local government. Removal of old structure chart
Page 7	Removal of the joint arrangments diagram Explanation of how other decisions are made under regulatory committes and delegated authority Explanation into the role of scrutiny under the Leader and Cabinet mode style of local government. Amendment to wording in relation to the role of council staff or officers Amendment to wording in relation to citizens rights, and the forward plan in a leader and Cabinet style of local government.
Page 8	Continuation of page 7 amendments
Page 9	Part 1 Contents, Amendments to the description of articles as described on page 4.

Page 10	Explanation added in relation to the interpretation and Review of the constitution, in particular clarification regarding the interchangeability of the words executive and Cabinet.
Page 11	Continuation of Article 1
Page 12-13	Clarification in relation to the term of the Leader and Members added
Page 14	Strategy committee replaced with the word Cabinet in relation to citizens rights.
Page 15-16	The Full Council- Details of the Function of the Full Council. The Policy Framework Details of the Budget Framework
Page 17	Role and Function of the Chairperson of the full Council, in particular in relation to being excluded from being both a member of the Cabinet and Chair or Vice chair.
Page 18-20	Article 6 All new Content in relation to the purpose and Function of the Cabinet.
Page 21	Article 7 Overview and Scrutiny and joint scrutiny committee- new content
Page 22	Article 9 instead of Article 8 The babegh and Mid Suffolk joint standards committee
P23-24	Further clarification in relation to Joint arrangements of the two Councils.
Page 25	Additional wording added in relation to the Monitoring officer and the maintenance of the scheme of delegation.
Page 30 -31	Article 13.3 reference to the MO or the Assistant Director for Law and Governance, being able to appoint legal counsel Article 13.5 the AD for Law and Governance removed in relation to the Common Seal of Council replaced with just MO
Page 31	Article 14.3 Article 14.6 Upkeep of the Constitution
Page 32	All new content in relation to Suspension of the constitution, interpretation and publication

Page 33	Contents of Part 2 of the constitution including Cabinet
Page 34-39	Powers and Duties of the Council, the Cabinet and Committees - New content Scheme of delegated powers new content, and local choice Local Choice continued (new content) Amendments to wording and references to officers All new content in relation to local choice and non exec functions
Page 40	Responsibilities of the Cabinet, General Role, new text Frequency of meetings- Remove the not in August Substitutes, no substitutes in the Cabinet allowed added
Page 44	Remove Executive or Strategy committee from paragraph 1
Page 46	4.3 Remove of strategy committee
Page 49	Substitutes, add any members remove Executive and Strategy Committee and add Cabinet.
Page 51	add "Overview" to the title of the committee Replace Council with the word Cabinet Replace Strategy Committee with the word Cabinet
Page 52	Add "overview " to the title of the committee
Page 55 - 61	Merging terms of reference of existing licensing and regulatory committees
Page 62-65	Removal of Strategy / Executive and insertion of Cabinet. Addition of 'advisory and consultative panel' to section 4
Page 66 - 80	Scheme of Officer Delegations Replace references to Strategy / Executive with Cabinet Amendments to job titles and split of responsibilities New sections reagrding executive / non-executive functions

	New section regarding transfer of functions
Page 82	Insert definition of Cabinet
Page 83	Insert definition of Key Decision
Page 85	Remove reference to Strategy / Executive
Page 90	Remove reference to elect a Deputy Leader
Page 118	Amendments to substitutes to refer to Cabinet members
Page 120 - 122	Cabinet procedure rules All new text
Page 127 - 136	Application of rights of access rules to the Cabinet. All new text
Page 137	<p>Budget and Policy Framework 1.1 add the word major and change Strategy Committee to Cabinet</p> <p>1.2 Change Strategy Committee to Cabinet</p> <p>add the budget and Major Policy Framework</p> <p>Add the word Senior to the Management Board</p> <p>Remove reference to Heads of Service</p> <p>add any to staff with delegated authority</p> <p>wording in brackets is new</p> <p>2.1 and 3.2 Change Strategy Committee to Cabinet</p> <p>12 (e) and (f) replace reference to Chief Executive with Monitoring Officer</p>
Page 138 - 167	<p>Scrutiny Procedure Rules</p> <p>Change the word already to also</p> <p>add the word this to the joint committee</p> <p>remove "however the oversight of the delivery of this function sits with this Committee</p> <p>Strategy Committee replaced with Cabinet</p> <p>Removed (Corporate) from all references to Strategic Director</p>

Page 168 -180 Financial Procedure Rules
Amendments to include references to Cabinet

Page 181 - 193 Contract Standing Orders
Removal of s.2.4 "Approval of the Award of Strategic Business Contracts"

Part 4 of the Constitution is unaltered

Throughout the Constitution it should be assumed that any references to Strategy / Executive have been replaced with references to Cabinet