

ANNUAL COUNCIL**Wednesday, 22 May 2024**

REPORT TITLE:	REVISIONS TO THE CONSTITUTION
REPORT OF:	DIRECTOR OF LAW AND CORPORATE SERVICES

REPORT SUMMARY

This report provides for approval the updated revisions to the constitution which has been amended to incorporate proposed changes referred to Council by the Constitution and Standards Committee who met on 28 February 2024.

The proposed changes recommended by the Constitution and Standards Committee are in relation to:

- Officer Code of Conduct
- Member Officer Protocol
- Media Protocol
- Financial Procedure Rules
- Members Allowance Scheme
- Public Questions and Petitions
- Minor amendments
- Licensing Code of Good Practice

This matter affects all wards. This is not a key decision. The report contributes to the delivery of all Council Plan Priorities by ensuring that the Council's decision-making process is as effective as possible.

RECOMMENDATION/S

Council is recommended to:

- (1) endorse the proposed amendments to the Constitution, as detailed in sections 3.2 to 3.15 of the report as recommended by the Constitution and Standards Committee.
- (2) adopt the revisions to Constitution.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 Throughout the Municipal year 2023/2024 several matters were drawn to the attention of the Monitoring Officer by Members, Officers and Members of the public in respect to aspects of the Constitution. The Constitution and Standards Committee were requested to consider the recommendations detailed in the report and submit them to the Council Meeting in May for approval. All agreed changes will be incorporated into a revised Constitution which will be published for the 2024/2025 municipal year.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 Council could decide that having considered the matters referred to in the report, that they do not deem it necessary to amend the Constitution.

3.0 BACKGROUND INFORMATION

- 3.1 At the meeting of Constitution and Standards Committee on 28th February 2023, Members considered seven issues and suggested changes to the Constitution to address these issues.

Officer Code of Conduct

- 3.2 A revised Officer Code of Conduct was presented to the Governance Working Group on 25 September 2023 having been redrafted by officers in the Organisational Development team. This work aimed to align the Code of Conduct with other corporate strategies and policies in terms of format and accessibility. The revised Officer Code of Conduct is attached to this report.

Member Officer Protocol

- 3.3 The Member Officer Protocol had not been reviewed since 2016 and therefore the Governance Working Group felt it was timely to review it. Having reviewed the content of the protocol, officers were content that it was mostly still pertinent, and that the protocol was fit for purpose. A proposed redraft was submitted to the Working Group for consideration on 22 November 2023 which included an amalgamation of sections 4, 5 and 8, as well as the information pertaining to access to information for members being moved to the Access to Information Procedure Rules. The Governance Working Group endorsed this approach and therefore the revised Member Officer Protocol is attached to this report,

Media Protocol

- 3.4 The Media Protocol had not been reviewed since 2020 and therefore it was felt to be good practice for the document to be reviewed to ensure it was fit for purpose. The Head of Communications presented a re-drafted protocol to the Governance

Working Group at its meeting on 19 February 2024. The Working Group endorsed the revised protocol which is attached to this report.

Financial Procedure Rules

- 3.5 The Director of Finance has undertaken a review of the Financial Procedure Rules and looked to reduce the length of the document. The review sought to remove repetitious information which was included elsewhere in the Constitution and other policy documents, which had enabled a significant reduction in the length of the document. The Governance Working Group considered the revised procedure rules at its meeting on 19 February 2024 and endorsed the document, which is attached to this report.

Members Allowance Scheme

- 3.6 The Independent Remuneration Panel met to give consideration to the possible inclusion of a Special Responsibility Allowance for the positions of Chair and Vice Chair of the Liverpool City Region Transport Committee in the event of a Wirral Member being elected to the position. Information was sought from the Liverpool City Region Combined Authority, the Metro Mayor, the past and current Chair as other LCR authorities. The Panel's recommendation is detailed in the table below:

Transport Member allowance)	Committee (Basic	Enhancement	Remuneration Total
£5904.27		-	£5904.27
£5904.27		Opposition Spokesperson £2767.46	£8,671.73
£5904.27		Lead Member £4612.09	£10,516.36
£5904.27		Vice Chair £5,162.79	£11,067.06
£5904.27		Chair £10,325.58	£16,229.85

- 3.7 The Independent Panel also considered the current level of remuneration for Independent Persons. The Panel proposed an increase from £30 per meeting or per three hours to £60 per meeting or per three hours. The revised Members Allowance Scheme is attached to this report.

Public Questions and Petitions

- 3.8 It was brought to the Governance Working Group's attention that Standing Order 2(v) which detailed the 30-minute time limit for public questions at Council Meetings did not apply to Committee or Sub-Committee meetings (Standing Order 24). At its meeting on 22 November 2023, the Working Group agreed that this rule should also apply to Committees and Sub-Committees, therefore a proposed redraft of Standing Order 10.7 is attached at to this report.

- 3.9 The Governance Working Group further requested that the Petition Scheme be relooked at following recent experiences. A petition was submitted with over 5,000 signatures. At its meeting on 26 January 2024, it was noted by the Working Group that it was difficult to verify whether signatories worked or studied in Wirral when providing a home address outside of Wirral. It was further noted that the requirement for submission of petitions 10 working days prior to a meeting was mainly to enable verification of signatures to ensure that they were valid to trigger a debate, but that only one petition submitted had exceed 5,000 signatures. The Working Group therefore proposed that:
- Petitions should be submitted by **12 noon 3 working days prior to a meeting**, in line with statements and questions;
 - Signatures to petitions that qualify for a Council debate **should only be from those who live in Wirral**;
 - The time limit for a Council debate for a petition with over 5,000 signatures be **increased from 15 minutes to 30 minutes**.
- 3.10 It was noted and accepted that the proposed change to the time limit for submission of petitions meant that any petition with over 5,000 qualifying signatures submitted to Council after the summons had been published would be debated at a subsequent Council meeting. The Working Group noted that members of the public could still arrange for petitions to be submitted well in advance of the summons publication to enable the petition to be debated at the same meeting it was submitted to.
- 3.11 The proposed changes to Standing Order 11.2 are detailed in Appendix G and the proposed changes to the Petition Scheme are detailed in an attachment to this report

Minor Amendments

- 3.12 From 31 January 2024, new rules are in place in respect of the aspect of health scrutiny that relates to reconfigurations of local health services. This means that from this date, local health overview and scrutiny committees (HOSCs) will no longer be able to formally refer matters to the Secretary of State where they relate to these reconfigurations. Instead, the Secretary of State themselves will have a broad power to intervene in local services – HOSCs will have the right to be formally consulted on how the Secretary of State uses their powers to “call in” proposals to make reconfigurations to local health services. Other aspects of health scrutiny remain unchanged – the power to require representatives of NHS bodies to attend formal meetings, the power to get information from NHS bodies and the power to require NHS bodies to have regard to scrutiny’s recommendations. This requires a change to Part 3(B) paragraph 2.5 (a) of the Constitution, as follows:

Delete the following sentence:

“It will also be able to refer to the Secretary of State for Health and Social Care if any such proposal is not considered to be in the interests of the health service.”

And replace with:

“Health Overview Scrutiny Committees can write to request that the Secretary of State consider calling in a health proposal. Requests should only be used in exceptional situations where local resolution has not been reached.”

- 3.13 Full details of the proposed changes can be found in the report to Constitution and Standards appended to this report.
- 3.14 Further changes have been proposed by the Monitoring Officer as part of regular maintenance and updating of the Constitution. These include:
- Updates to the Terms of Reference of Regulatory and General Purposes Committee and Licensing Act Committee so that the Regulatory Sub-Committee is referred to as the Licensing Panel.
 - Deletion of reference to the Director of Resources in relation to acting as the Section 151 Officer and its replacement with Director of Finance.
 - Amending the process for agreeing the budget in the Budget and Policy Framework Procedure Rules to include a further informal meeting of Policy & Resources Committee if the budget is not agreed as opposed to a formal meeting.
 - Amending the Terms of Reference for Children, Young People and Education Committee to include reference to Schools Forum in the functions exercisable by the Council in relation to the provision of Education.
 - Part 3, Section A of the Constitution sets out matters that are reserved to Council to determine. One of those matters that the Council chooses for Council to approve is the Council Plan (December 2023), as per paragraph 2 b) (i). It is recognised that the Council Plan is supported by a range of plans and strategies. These will now be listed by way of a hyperlink so that both the public and the council’s officers are clear that decisions are made in line with the Council’s approved budget policy framework. It will not be necessary for the individual plans and strategies listed in the hyperlink to be approved by full Council, these will continue to be approved at the relevant committee.

<https://www.wirral.gov.uk/council-plan>

LICENSING CODE OF GOOD PRACTICE

- 3.15 There is currently no Code of Good Practice for Members specifically involved in the Licensing process and this could continue to be the case, however it is considered appropriate for the Council to adopt a Licensing Code of Good Practice to give particular guidance to Members of the Licensing Committees in a similar way that such guidance is given to Members of the Planning Committee.

The Members’ Draft Licensing Code of Good Practice has been prepared in response to an audit of the Council’s Governance arrangements which

recommended a Code of Conduct for Members involved in the Licensing process. The Draft Code has been prepared with reference to the existing Members' Planning Code as well as the Model Members' Planning Code of Good Practice produced by Lawyers in Local Government (LLG) which was revised in January 2024. The draft code was presented to the Constitution and Standards Committee on 28 February 2024 and circulated to Members of Regulatory and General Purposes Committee for their feedback.

The Codes referred to have incorporated the Nolan Principles and commentary from the Committee on Standards in Public Life, the changes in the approach to codes of conduct and predetermination introduced by the Localism Act 2011 as well as the guide on 'Openness and transparency on personal interests' published by the Department for Communities and Local Government 2013. This proposed Code will apply to Members at all times when involving themselves in the Licensing process.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The Members' Allowances Scheme will form part of the Council's normal budget setting considerations. It should be noted that an individual Member can only claim one SRA. A number of Councillors often perform two roles which would entitle them to an allowance. Being a Deputy Group leader whilst being a Committee Chair is one such example.

5.0 LEGAL IMPLICATIONS

- 5.1 Part 3, Section A of the constitution details those functions which are reserved to the Council Meeting. Point 2 (k) stipulates those significant changes to the Council's Constitution, include adopting and amending standing orders, Rules of Procedure, Contract Procedure Rules, Financial Regulations, Codes and Protocols that make up the Constitution.
- 5.2 Where the Constitution & Standards Committee concludes that the Council Procedure Rules be amended, then a recommendation must be made to the Council for a final decision.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 There are no implications arising from the recommendations detailed in this report.

7.0 RELEVANT RISKS

- 7.1 There are no foreseen risks arising from the recommendations detailed in this report.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 The Governance Working Group has been consulted and recommended to proposed changes, in consultation with the Director of Law and Corporate Services.

9.0 EQUALITY IMPLICATIONS

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.
- 9.2 There are no direct equality implications arising from this report.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 There are no direct environment and climate implications arising from this report

11.0 COMMUNITY WEALTH IMPLICATIONS

- 11.1 There are no direct community wealth implications arising from this report.

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APPENDICES

Appendix 1 – 10 Revisions to the Constitution.
Appendix 2 – Minutes of the Construction and Standards Committee

BACKGROUND PAPERS

Council Constitution

TERMS OF REFERENCE

This report is being considered by Full Council in accordance with the Policy Framework (k) 'Significant changes to the Council's Constitution, including adopting and amending standing orders, Rules of Procedure, Contract Procedure Rules, Financial Regulations, Codes and Protocols that make up the Constitution.'

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Constitution and Standards Committee	28 February 2023
Council	24 May 2022