

# Title of report: Re-thinking governance

**Meeting: Council**

**Meeting date: Friday 4 March 2022**

**Report by: Chairperson of the audit and governance committee**

## Classification

Open

## Decision type

This is not an executive decision

## Wards affected

(All Wards);

## Purpose

To approve the suggested amendments to the council's constitution recommended by audit and governance committee.

## Recommendation(s)

**That:**

- a) **having regard to the work undertaken by the re-thinking governance working group, the revised constitution as set out at appendices 1 to 29, be approved for adoption, with implementation with effect from 20 May 2022; and**
- b) **authority be delegated to the director of law and governance to make technical amendments (grammatical, formatting, and consistency) necessary to finalise and represent the revised constitution for publication.**

## Alternative options

1. To reject the proposed amendments and retain the current constitution and policies unamended: this is not recommended because the amendments have been proposed in order to either:
  - a) Improve clarity; or
  - b) Improve the efficiency and effectiveness of the council's governance arrangements

2. To propose alternative or additional amendments; it is open to members to propose alternative or additional amendments. A review is already scheduled for March 2024 where further changes can be considered.

### Key considerations

3. On 11 October 2019, Council resolved to review its governance arrangements to investigate and explore options for the future. The following guiding principles were set by the council:
  - To maximise member engagement and participation in decision-making.
  - To ensure decision-making is informed, transparent and efficient.
  - To welcome public engagement.
  - To enable members and officers to perform effectively in clearly defined functions and roles.
  - To assess any resource implications for any proposed changes.

Appendix one maps each change that has been made to the constitution against these design principles.

4. The review was undertaken by a cross-party working group, the membership of which is:

Member	Substitute member	Political Group	Function
Councillor Bolderson		Conservatives	Audit and Governance
Councillor Bartlett	Councillor Toynbee	Green	Scrutiny
Councillor Watson	Councillor Hardwick	Independents for Herefordshire	Planning and Regulatory
Councillor Seldon (until Jan 2022)	Councillor Harvey	Independents for Herefordshire	Cabinet
Councillor James	Councillor Andrews	Liberal Democrats	Employment Panel
Councillor Matthews	Councillor Mike Jones	True Independents	Scrutiny

5. On 9 October 2020, Council resolved upon recommendation from the audit and governance committee: “having regard to the work undertaken by the Re thinking Governance working group and the recommendation of audit and governance committee, a hybrid cabinet model of governance is approved with implementation from annual council in May 2021.”
6. At audit and governance committee meeting on 4 May 2021, the re-thinking governance working group requested a deferral in order that the totality of their recommendations could be presented to Council.
7. The working group have met regularly since November 2019 and have consulted all members on the preferred options to strengthen the current hybrid model.
8. The main changes to the constitution are as follows;
  - Reorganisation of scrutiny committee functions into 5 committees
  - An annual effectiveness review of committees presented to the annual council meeting
  - Cabinet are provided the ability to hold Question and Answer meetings
  - Clarity has been given to the planning committee rules including redirection and a time allocation for ward member speaking.

- The Employment Panel functions relating to disciplinary and grievance meetings have been set out.
  - Questions at meetings criteria has been changed
9. As part of the work already undertaken, a number of operational changes are planned to take place following the Council meeting. These arrangements include the forward plan being more transparent and accessible to councillors and members of the public, improved scrutiny pages on the council's website and key decision consultations taking place in a virtual meeting. A review of the strategic partnership arrangements is still outstanding and will be completed as outlined by SWAP separately to this work and tracked via the annual governance statement action plan.
  10. The recommended date for implementation provides time for the constitution to be re-presented, the Independent Remuneration Panel to meet and make recommendations in light of the changes and to ensure all operational changes are in place. This will include training for members and officers.
  11. The audit and governance committee on 25 January 2022, reviewed the work undertaken and made one amendment- to re-insert at Part 5, Section 8, (Public Participation Guide) at 5.8.23: "on any of the grounds detailed in the section above." as a criteria for questions has been included.
  11. The outcome of the review increases member participation by 17% to 71% (from 54%), (this doesn't go as far a committee system that would increase participation of all members. It increases scrutiny meetings by 5 overall in the year and provides the ability to take a fresh look at scrutiny and how it operates.
  12. Some elements of the constitution have yet to be reviewed and the audit and governance committee have agreed that these remaining elements will be progressed as outlined below:
    - Audit and Governance Committee Functions
    - Code of Conduct
    - Re-presentation of the Constitution
    - Review of licensing sub-committee functions to take into account any changes to the taxi licensing policy which is due to approval by Council.
    - Further work on the planning code / guidance to take into account the recommendations from the Planning Advisory Service (PAS) review.
    - Member and officer code
  13. A review of how these changes have improved our governance model will take place by the working group in March 2023.

## **Community impact**

12. Corporate governance is the term used to describe the systems, processes, culture and values the council has established to ensure we provide the right services, to the right people in a timely, open, and accountable way. Good corporate governance includes encouraging better informed longer-term decision making using resources efficiently, and being open to scrutiny with a view to improving performance and managing risk. Periodic reviews of the models of governance adopted by the council and the established processes and culture are valuable ways in which the council can demonstrate how the council uphold the code of corporate governance.

13. This work forms part of a formal corporate delivery plan, 2020 to 2022, commitment to: Complete the review of governance arrangements and implement new arrangements and constitution. This report brings the audit and governance committee up to date with progress toward that objective.
14. The council is responsible, as a corporate parent, for providing the best possible care and safeguarding for children who are looked after by the council, and as part of this must consider the impact of decision making on looked after children and care leavers. Any review of models of governance and mechanisms for stakeholder engagement in decision-making must consider how this responsibility may best be discharged.

### Environmental impact

15. The development of a revised governance model will seek to minimise any adverse environmental impact and will actively seek opportunities to improve and enhance environmental performance.

### Equality duty

16. Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:
 

A public authority must, in the exercise of its functions, have due regard to the need to –

  - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
16. The public sector equality duty (specific duty) requires the council to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services. Any review of governance models and decision making processes must ensure this duty is demonstrably upheld and promoted.

### Resource implications

17. The review was undertaken using existing resources. The additional revenue cost is part of the 2022 budget round or will be paid from existing budgets.

Revenue budget implications	2020/21	2021/22	2022/23	Future Years	Total
	£000	£000	£000	£000	£000
<i>Additional scrutiny chairpersons (subject to recommendations of the independent remuneration panel)</i>			£18k		
<i>Statutory scrutiny officer</i>			£47k		
<b>TOTAL</b>			<b>£65k</b>		

## Legal implications

18. The council is required to have a constitution. The proposed new model will provide the basis for changes to the current constitution to be adopted and implemented at the next annual council meeting.

## Risk management

19.

Risk / opportunity	Mitigation
Insufficient time to make all operational changes	Project management support in place to ensure milestones are met
Structural changes do not make cultural changes need to strengthen scrutiny changes	Training on the refreshed model and functions of scrutiny has been procured by Centre For Governance and Services with an effectiveness review in a years time
Insufficient time to re present the constitution	This is not time critical
Changes do not meet the design principles agreed by Council	A review will be taken in May 2023

20. These are all operational risks that will be managed by the project lead from the programme office and may be escalated to the Law and Governance risk register in accordance with the risk management policy.

## Consultees

21. All political groups are represented in the working group. The non-aligned member declined to participate in the working group.
22. All member briefing sessions took place on 22 and 23 April 2020, 22 February 2021, 7 July 2021 and their views were taken into account by the working group when considering the proposed changes to the Constitution.

## Appendices

Appendix 1 – Constitution change tracker

Appendices 2 to 29 – Clean and tracked change versions of the Constitution

## Background papers

None

