

Council	
Meeting Date	30 March 2022
Report Title	Change of governance model: Updates to Parts 1 and 2 of the constitution
Cabinet Member	Cllr Baldock – Deputy Leader (Cabinet Member for Constitutional Reform)
SMT Lead	David Clifford – Head of Policy, Governance and Customer Services (Monitoring Officer)
Head of Service	
Lead Officer	
Key Decision	No
Classification	Open
Recommendations	Council is asked to: 1. Adopt the text at Appendices I and II as Parts 1 and 2 of the updated constitution, to come into effect at annual council in May 2022.

1 Purpose of Report and Executive Summary

- 1.1 This report updates council on the work of the cross-party group overseeing the review of the constitution, and asks council to agree new wording for Part 1 (introduction) and Part 2 (responsibility for functions), giving effect to the decision to move to the committee system from May.

2 Background

- 2.1 Council voted unanimously in October to move to a committee system of governance from the 2022/23 municipal year. At the same meeting, council requested the cross-party working group which had been established to consider this governance change to continue its work in overseeing the detail of the new governance model. The working group comprises Cllrs Baldock (chairman), Bonney, Darby, Ingleton, Martin, Simmons, Truelove and Valentine.
- 2.2 As has previously been reported to council, the working group generated and considered a range of different options for the number of service committees which will replace cabinet, as well as reviewing options for the committees' remits, how they should operate, and the number of members who should serve on them. An outline decision on all of these points was made by council in February.

- 2.3 A guiding principle for the working group has been for the updated constitution to be as concise and as coherent as possible. Among other things, this implies that all the rules governing a particular meeting or process should be located in the same place – at least to the extent that this is possible.

3 Proposals

- 3.1 The text at Appendices I and II is intended to replace Parts 1 to 3 of the current constitution. The working group gave very detailed consideration to this text at its meeting on 18 March.
- 3.2 In line with the concision and coherence principles, the articles in the old version of the constitution (old Part 2) have been removed and, to the extent that they are not duplicates of rules to be found elsewhere, incorporated into the new introductory section (new Part 1). In addition to making it easier to locate the relevant rule, this will also facilitate maintenance of the constitution by reducing the likelihood of updated rules in one section coming into conflict with existing rules in another.
- 3.3 As expected, the most significant change is the deletion of the sections dealing with the cabinet and other features of the executive model in the ‘responsibility for functions’ part (new Part 2), and the addition of new sections covering the policy and resources committee and other service committees at Section 2.2. This is all in accordance with the outline decision made by council in February covering the remits and membership of these committees.
- 3.4 Two new subcommittees of the policy and resources committee are established in Section 2.2 (investigation and disciplinary subcommittee and statutory officer disciplinary appeals subcommittee), in addition to the existing appointments subcommittee. This is to take account of recent amendments to the legal provisions on senior officer disciplinary matters, which will also be reflected in the updated officer employment procedure rules.
- 3.5 At the February council meeting there was some discussion of what should replace the current local plan panel. Having carefully considered all the options – including a stand-alone committee and a subcommittee of a service committee – the working group determined that a dedicated working group making recommendations to policy and resources would be the best approach. This is reflected in the text at Appendix I at paragraphs 2.2.1.8 and 2.3.6.2.
- 3.6 The text at Appendix I also reflects the move to a single licensing committee, as considered by the working group and discussed at the member briefing in February. As with the service committees and the planning and transportation policy working group, this clarifies that the licensing committee will make recommendations to the policy and resources committee, and where relevant the full council, on matters of licensing policy.
- 3.7 The remainder of the changes which have been made to the text at Appendix I are largely consequential amendments to take account of the new governance

model. This is also the case for the officer delegations in Section 2.8 (Appendix II) where, with the exception of a couple of amends aiming to give members more right to be consulted on officer decisions, the changes have been to delete references to cabinet members and replace them with committee chairs. Swale's list of officer delegations is very long and arguably a little old-fashioned, so the working group has agreed to consider how it could be modernised, without materially affecting the substance of the scheme, in the new municipal year.

- 3.8 Council is now **recommended** to adopt the text at Appendices I and II as Parts 1 and 2 of the updated constitution, to come into effect at annual council in May 2022.

4 Alternative Options

- 4.1 Having made the decision to move to a committee system of governance, the council needs to put in place service committees to take on the work of the current executive. However, there is a good deal of flexibility in terms of the number and remit of these committees, so there is a range of potential alternative options. Council agreed in October that the cross-party working group should be the body to develop proposals for the detailed working of the new system, and the constitutional text at Appendices I and II reflects the group's considered preferences.

5 Consultation Undertaken or Proposed

- 5.1 In addition to the cross-party member working group, an officer group has also been established to work on the introduction of the new system, and that group has been consulted on the content of this report. The council fulfilled its legal obligation shortly after the October decision to move to a committee system to bring that decision to the attention of the public by means of a newspaper notice.

6 Implications

Issue	Implications
Corporate Plan	The updated constitution is an expression of the council's fourth corporate plan priority, to 'renew local democracy and make the council fit for the future'.
Financial, Resource and Property	No implications identified at this stage. In the new model, the policy and resources committee will propose an annual budget to council in the way that cabinet does now, and once adopted all service committees will spend within the confines of that budget, again as cabinet does now.
Legal, Statutory and Procurement	The council has engaged a consultant corporate governance solicitor to assist with the redrafting of the constitution, and he is confident that the text at Appendices I and II represents a modern

	and legally robust approach to both the form and substance of a council constitution.
Crime and Disorder	No implications identified at this stage. Crime and disorder matters fall under the remit of the community committee in the structure proposed here.
Environment and Climate/Ecological Emergency	No implications identified at this stage. Environmental, climate and ecological matters fall under the remit of the environment committee in the structure proposed here.
Health and Wellbeing	No implications identified at this stage. Health and wellbeing matters fall under the remit of the housing and health committee in the structure proposed here.
Safeguarding of Children, Young People and Vulnerable Adults	No implications identified at this stage. Safeguarding matters fall under the remit of the housing and health committee in the structure proposed here.
Risk Management and Health and Safety	No implications identified at this stage.
Equality and Diversity	No implications identified at this stage.
Privacy and Data Protection	No implications identified at this stage.

7 Appendices

- Appendix I: Updated text of Parts 1 and 2 of the constitution
- Appendix II: Updated text of Part 2.8 (scheme of officer delegations)

8 Background Papers

- 8.1 Council report from October 2021 regarding the decision to make a formal change to the council's governance model:
<https://services.swale.gov.uk/meetings/documents/s21029/Council%202021-10-16%20re%20governance%20model%20change%20v0-3.pdf>
- 8.2 Council report from February 2022 regarding the outline of the new committee structure:
<https://services.swale.gov.uk/meetings/documents/s22159/Council%202022-02-23%20committee%20functions.pdf>
- 8.3 Current council constitution:
<https://services.swale.gov.uk/meetings/ieListDocuments.aspx?CId=287&MIId=1469&Ver=4&Info=1&a=1>