

For publication

Delegation Scheme and Constitution

Meeting:	Council
Date:	28 TH April 2021
Cabinet portfolio:	Governance
Directorate:	Resources

1.0 Purpose of report

- 1.1 To seek confirmation of the current scheme of delegation and Constitution.

2.0 Recommendations

- 2.1 That members confirm the Constitution, including the scheme of delegation in Part 3 and the Covid-19 supplement to the Constitution.

3.0 Reasons for Recommendation

- 3.1 To ensure effective and efficient operation of the Council.

4.0 Report Details

- 4.1 The Constitution is a key document, required by law, which sets out the principal powers, duties and procedures of the Council. It also sets out in Part 3 to whom decision making over the Council's various functions is delegated.
- 4.2 The current form of Constitution has been in place since the early 2000s, using a government model. Most council constitutions follow a similar format, though some are now moving away from it. The constitution is publicly available on the Council's website at

<https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx>

- 4.3 The Constitution needs to be changed and updated from time to time to ensure it reflects current legislation, practices, functions, structures and efficient working of the authority.
- 4.4 Full Council considers the main changes and other changes are delegated to Standards and Audit Committee. Any consequential amendments and general updates are the responsibility of the Monitoring Officer.
- 4.5 Council approved and confirmed the current version of the Constitution at its October 2020 Annual Business Meeting. Since that time there have been some changes reflecting the Corporate Management Team restructure, the Leader's portfolio adjustments, minor changes to some delegations, routine updates and corrections referred to in Appendix 1.
- 4.6 Due to Covid-19 there was need to amend the Constitution in various ways, not least to facilitate remote meetings. These were approved by Standards and Audit Committee at various meetings in 2020 and reported to Council in July and in October. On 22nd July Standards and Audit Committee reviewed the governance measures which had been put in place in response to the pandemic.
- 4.7 With the government not extending the ability to hold virtual meetings beyond 6th May 2021, on 21st April Standards and Audit Committee considered a report on how physical meetings could be reintroduced safely and effectively once remote meetings cease¹. Subject to a high court case interpreting whether current law continues to permit remote meetings, arrangements for physical meetings are now being put in place, though the Covid-19 Constitution amendments will be left in place for the time being.

¹<https://chesterfield.moderngov.co.uk/documents/b18624/Report%20and%20appendices%20for%20Item%2011%20Covid-19%20-%20End%20of%20Remote%20Meetings%2021st-Apr-2021%2014.00%20Standards.pdf?T=9>

5.0 Delegation Scheme

- 5.1 Standing Order 1 paragraph 7 says that the Annual Business Meeting should agree the delegation scheme or such part of it as the Constitution determines it is for the Council to agree. The scheme is set out in the Constitution, with details in Part 3 (Responsibility for Functions).
- 5.2 Many changes to the constitution, including changes to the delegation scheme, are now agreed by Standards and Audit Committee.
- 5.3 As mentioned above Council confirmed the current version of the Constitution, the delegation scheme and Covid-19 related changes in October 2020. These and subsequent changes considered by Standards and Audit Committee are summarised in Appendix 1 and set out in a Covid-19 Supplement to the Constitution at:

<https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx>

- 5.4 The approved version of the delegation scheme at Part 3 of the Constitution is also at:

<https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx>

5.0 Alternative options and reasons for rejection

- 5.1 *Do not confirm the scheme:* The Constitution was approved by Council in October 2020. Further updates have been made, with those requiring approval considered by Standards and Audit Committee on 21st April. The scheme sets decision making at the appropriate level and is essential for effective working of the Council, with additional measures as the result of the pandemic. The Constitution is required by law and is generally reviewed on a rolling basis. Confirmation by Full Council ensures certainty that that the published Constitution is approved.

6.0 Implications for consideration – Council Plan, Financial and Value for Money

6.1 The Constitution is a living document and is changed as necessary to respond to current circumstances, enable more efficient working of the authority, reflecting the current structure and best practice. It contributes to effective achievement of the council plan and providing value for money services.

7.0 Implications for consideration - Legal

7.1 This report is seeking confirmation of the current delegation scheme, previously approved by Council and Standards and Audit Committee.

7.2 The Council must have a constitution and this must be updated periodically: it is a living document. While changes are authorised by full Council, many other changes are delegated to Standards and Audit Committee. There have been changes in response to Covid-19 pandemic and relevant legislation and consideration of changes necessary with the safe return to physical meetings. Approval of the Constitution periodically by the Council avoids uncertainty.

8.0 Implications for consideration - Human resources

8.1 The Constitution is a living document and is changed as necessary to enable more efficient working of the authority, reflecting the current structure and best practice. It enables officers and members to operate within a clear framework.

9.0 Implications for consideration - Risk management

9.1 This report concerns confirmation of part of the existing Constitution.

Description of risk	Impact	Likelihood	Mitigating Action	Resulting Impact	Resulting Likelihood
Constitution not reflect current	H	M	Regular review of all parts of the Constitution and	L	L

requirement of the Council			appropriate proactive and reactive amendment.		
Complaint / challenge as relevant approval of changes not obtained	H	L	Ensure those changes requiring approval are approved by Standards and Audit committee / Full Council as appropriate. Periodic approval of whole Constitution by Full Council	L	L
Inability of Council to effectively operate during Covid-19 pandemic and beyond	H	H	Ensure appropriate changes are made quickly to governance arrangements so the Council can continue to operate effectively and lawfully	L	L

10.0 Implications for consideration – Community wellbeing, Economy and skills, Climate change, Equality and diversity

10.1 Many of the measures responding to Covid-19 helped effective work of the Council in these areas. A requirement to return to physical meetings will result in more travel by councillors and officers, though it is envisaged some officers will continue to attend remotely in many cases. Care will need to be taken to ensure there is no disproportionate effect on those with protected characteristics.

Decision information

Key decision number	<i>All key decisions must be in the Forward Plan at least 28 days in advance. There are constitutional consequences if an item is not in the Forward Plan when it</i>
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	<i>should have been. Contact Democratic Services if in doubt.</i>
Wards affected	All
Links to Council Plan priorities	to provide value for money services

Document information

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Background documents	
The Council's Constitution – on Council website https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx	
<i>This must be made available to the public for up to 4 years.</i>	
Appendices to the report	
Appendix 1	Summary of changes