

**BROMSGROVE DISTRICT COUNCIL**

**COUNCIL**

**20<sup>th</sup> April 2011**

**Changes to Constitution**

Relevant Portfolio Holder	Geoff Denaro
Relevant Head of Service	Claire Felton
Non Key Decision	

**1. SUMMARY OF PROPOSALS**

1.1 Council is asked to approve the amendments to the Constitution outlined in this report.

**2. RECOMMENDATIONS**

**It is recommended that:**

**2.1 Council notes and approves the revised sections of the Constitution as set out in the Appendices to this report.**

**2.2 That the Council approves the Policy on Members ICT facilities as at appendix 4 of this report and the revised terms of reference for the Local Development Framework Party as at appendix 5.**

**3. BACKGROUND**

3.1 The Constitution is a working document which is regularly amended and updated to reflect changes to the way in which the Council operates and carries out its functions.

3.2 Under the scheme of delegations the Monitoring Officer has a general delegation to enable minor changes to be made to the Constitution to update it. With the exception of the Policy on Members ICT Facilities, all of the changes that are being presented to members within this report have been agreed by members over the preceding 12 months. In preparation for the new municipal year the Monitoring Officer has made all of the necessary updates in line with those agreed decisions and now presents them to members in their new format for inclusion in the overall constitution document.

3.3 Accordingly Full Council is asked to note and approve the inclusion of the revised versions of the following parts of the Constitution:-

## **BROMSGROVE DISTRICT COUNCIL**

### **COUNCIL**

**20<sup>th</sup> April 2011**

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- Appendix 1 – Introduction to the Constitution (Part 1)
- Appendix 2 – Articles of the Constitution (Part 2)
- Appendix 3 – Allocation of Responsibility for Functions (Part 3)

- 3.4 In addition to these revisions members are being presented with a new policy on the provision of ICT to members. As part of the budget process members have approved a finite sum for the provision of members ICT and the proposed policy provides members with a number of options that would enable them to obtain ICT provision and support. This policy referred to as Policy on Members ICT Facilities can be found at Appendix 4 of this report and will form Part 22 of the Constitution.
- 3.5 Members will note at appendix 5 revised terms of reference for the Local Development Framework Working Party. As members are aware this is a cross party working party that has been established to look in detail at planning issues and make appropriate recommendations to the appropriate decision making committee, Board or Full Council. Over the years this working party has looked at various planning issues and it is fair to say that its role has become more relevant in the context of recent planning and local planning policy issues. It is for this reason that the terms of reference has been updated to properly reflect the importance of the working party and the range of its consultative activity. Members are reminded that the working party operated in an advisory capacity.

#### **4. KEY ISSUES**

##### **Introduction**

- 4.1 The Monitoring Officer proposes to replace the current very short introduction to the Constitution with the longer more detailed version attached at Appendix 1. The new version will provide a summary of the main aspects of the Constitution and a brief explanation of how the key bodies that make up the Council operate and interact to enable decision to be taken. The new version includes explanations of the current management team structure and the arrangements for joint working with Redditch Borough Council, Worcestershire Regulatory Services and other local authorities with whom the Council is operating shared services. The introduction also explains the move to a Leader and Cabinet Executive model of governance (the Strong Leader model) which the Council will formally be operating from after the May 2011 District Council elections. Members are reminded that all of these arrangements have already been

## **BROMSGROVE DISTRICT COUNCIL**

### **COUNCIL**

**20<sup>th</sup> April 2011**

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agreed by Full Council and that this is merely an updated version of how these arrangements are presented within the Council's Constitution

#### **Articles**

4.2 The Articles of the Constitution also need to be updated to reflect previously agreed decisions. The amendments reflect the change to the Committee Structure, namely the merging of the Overview Board, Scrutiny Board and Joint Overview and Scrutiny Board, and the removal of the Performance Management Board. There are also changes to section 7 (Leader and Cabinet) to bring into effect the legislative changes required under the Local Government and Public Involvement in Health Act 2007. These relate to the Strong Leader model of governance and cover various aspects including:-

- Appointment ( and removal of) the Leader and Deputy Leader
- size of the Cabinet
- ability of the Leader to take decisions in relation to executive functions or delegate such decisions to the Cabinet collectively, individual Cabinet members or to officers

#### **Allocation of Responsibility for Functions**

4.3 Part 3 of the Constitution which refers to responsibility for functions required to be expanded to give a fuller explanation of "Executive" and "Non-Executive Functions". This is relevant to the introduction of the Strong Leader model and the ability of the Leader to make decisions in relation to Executive functions. Members will recall that under the Strong Leader Model that the Council has chosen to adopt, this section will be dependent of the wishes of the Leader of the Council and that this may need to be changed if for any reason the Council appoints a new leader. A more detailed explanation has been included of those matters that can only be decided by Council, and in relation to "Local Choice" functions which may be allocated to either the Council or the Executive. More detail is included in relation to shared responsibility functions which both Council and the Executive have responsibility for, such as the budget and the policies making up the policy framework.

4.4 A new section relating to the role of the Cabinet has been included at Part B, and Part C sets out the committees that make up the Council and gives details of their terms of reference and any special rules that apply. Part D is the Officer Scheme of Delegation. This has not been produced with this

## **BROMSGROVE DISTRICT COUNCIL**

### **COUNCIL**

**20<sup>th</sup> April 2011**

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report as it is due to be approved by Full Council at the Annual Meeting on 18<sup>th</sup> May.

- 4.5 A new Part E has been added which refers to joint arrangements between the Council and other local authorities. This identifies the type of governance arrangements that are in place in relation to each joint arrangement.

#### **Member Protocol on use of IT at home**

- 4.6 New arrangements for Members ICT facilities are set out in Appendix 4, Policy on Members ICT Facilities. This updates and replaces the old Part 22 of the Constitution, "Protocol on the use of IT at home". The aim is to provide Members with the support they need to work electronically but at the same time to build in a degree of flexibility so that arrangements can be adapted to suit the needs of individual councillors. Members are referred to the two options set out at Choice 1 and Choice 2 of the policy.
- 4.7 To summarise, under Choice 1 Members would be provided with a laptop or PC by the Council with access to the internet and corporate email, Modern.gov, Microsoft Office and necessary documents. In addition Members would be able to claim £100 through their expenses allowance towards the cost of broadband services. Under Choice 2 the Council would provide a device to enable an existing PC or laptop belonging to a Member to access the internet and Corporate Mail etc. In addition the Member would be able to claim an allowance of £100 towards the cost of broadband services.
- 4.8 In agreeing to receive ICT support under the new policy Members would also be required to comply with the Council's other ICT policies. These are listed at part 9 of Appendix 4.

#### **5. FINANCIAL IMPLICATIONS**

- 5.1 There are no direct financial implications arising from this report, other than the cost of provision of ICT services to Members which has already been agreed as part of the overall medium term financial plan.

#### **6. LEGAL IMPLICATIONS**

- 6.1 Review and Revision of the Constitution is governed by Article 15 of the Constitution. The legislation relating to the new governance arrangements

## **BROMSGROVE DISTRICT COUNCIL**

### **COUNCIL**

**20<sup>th</sup> April 2011**

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for Leader and Cabinet Executives is set out in Part 3 of the Local Government and Public Involvement in Health Act 2007 which amends the Local Government Act 2000.

#### **7. POLICY IMPLICATIONS**

- 7.1 Appendix 4 sets out the Council's new policy in relation to provision ICT facilities for Members and appendix 5 sets out the Terms of Reference for the Local Development Framework Working Party.

#### **8. COUNCIL OBJECTIVES**

- 8.1 Improvement/ One Community.

#### **9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS**

- 9.1 The main risks associated with the details included in this report are:

- Failure to comply with statutory governance requirements which may expose the Council to the risk of challenge by way of judicial review or appeal which may result in awards of damages and costs against the Council and loss of reputation

These risks are being managed through the operation of the Council's Risk Register as follows:-

- Risk Register: Legal, Equalities and Democratic Services
- Key Objective Ref No: 2
- Key Objective: Effective ethical governance

#### **10. CUSTOMER IMPLICATIONS**

- 10.1 The recommendations will have minimal impact on internal/external customers

#### **11. EQUALITIES AND DIVERSITY IMPLICATIONS**

- 11.1 None identified

**BROMSGROVE DISTRICT COUNCIL**

**COUNCIL**

**20<sup>th</sup> April 2011**

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**12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT**

12.1 None identified

**13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY**

13.1 None identified

**14. HUMAN RESOURCES IMPLICATIONS**

14.1 None identified

**15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS**

15.1 The changes included are required in order to make sure that the Council is complying with the new governance arrangements in the Local Government and Public Involvement in Health Act 2007 (which amends the Local Government Act 2000). As referred to in the main body of the report, the Council agreed to adopt the Leader and Cabinet Executive model (or strong leader model) from May 2011. The report also refers to governance arrangements which the Council has entered into in relation to shared services with other local authorities.

**16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998**

16.1 None identified

**17. HEALTH INEQUALITIES IMPLICATIONS**

17.1 None identified

**18. LESSONS LEARNT**

18.1 N/a

**19. COMMUNITY AND STAKEHOLDER ENGAGEMENT**

19.1 N/a

**BROMSGROVE DISTRICT COUNCIL**

**COUNCIL**

**20<sup>th</sup> April 2011**

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**20. OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	Yes
Chief Executive	Yes
Executive Director (S151 Officer)	Yes
Executive Director – Leisure, Cultural, Environmental and Community Services	No
Executive Director – Planning & Regeneration, Regulatory and Housing Services	No
Director of Policy, Performance and Partnerships	No
Head of Service	Yes
Head of Resources	No
Head of Legal, Equalities & Democratic Services	Yes
Corporate Procurement Team	No

**21. WARDS AFFECTED**

All wards

**22. APPENDICES**

- Appendix 1 – Introduction to the Constitution (Part 1)
- Appendix 2 – Articles of the Constitution (Part 2)
- Appendix 3 – Allocation of Responsibility for Functions (Part 3)
- Appendix 4 – Policy on Members ICT Facilities (Part 22)
- Appendix 5 – Revised terms of reference for the LDF Working Party

**BROMSGROVE DISTRICT COUNCIL**

**COUNCIL**

**20<sup>th</sup> April 2011**

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**23. BACKGROUND PAPERS**

None

**24. KEY**

Not applicable

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