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**Report to:** Audit and Governance

**Date of Meeting:** 10 September 2014

**Subject:** Constitution Update

**Report of:** Director of Corporate Services

**Wards Affected:** All

**Is this a Key Decision?** No

**Is it included in the Forward Plan?**  
No

**Exempt/Confidential**

No

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### **Purpose/Summary**

To inform members of the ongoing work in relation to the Constitution. To set up a working group of members to review the proposed constitutional amends in detail and to make recommendations to Council

### **Recommendation**

1. To consider the proposed amendments to the constitution in light of the Openness of Local Government Bodies Regulations 2014/2095 and to make a recommendation to Council.
2. To set up a working group of members to review in detail the remaining proposed amendments to the constitution. Following which the group would make recommendations to the next meeting of the Audit and Governance Committee in December 2014.

### **How does the decision contribute to the Council's Corporate Objectives?**

	<b><u>Corporate Objective</u></b>	<b><u>Positive Impact</u></b>	<b><u>Neutral Impact</u></b>	<b><u>Negative Impact</u></b>
1	Creating a Learning Community		✓	
2	Jobs and Prosperity		✓	
3	Environmental Sustainability		✓	
4	Health and Well-Being		✓	
5	Children and Young People		✓	
6	Creating Safe Communities		✓	
7	Creating Inclusive Communities		✓	

8	Improving the Quality of Council Services and Strengthening Local Democracy		✓	
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**Reasons for the Recommendation:**

To ensure that the constitution remains up to date, transparent and an integral framework for the Council's decision making process.

To ensure that the professional standards of good governance are met.

**What will it cost and how will it be financed?**

**(A) Revenue Costs**

Nil

**(B) Capital Costs**

Nil

**Implications:**

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

<b>Legal</b> - Legal implications are contained in the contents of the report where appropriate	
<b>Human Resources</b> – Nil	
<b>Equality</b>	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

**Impact on Service Delivery:**

To improve good governance of the Council's business by updating the constitution to incorporate developments in legislation, and to improve current working practices.

**What consultations have taken place on the proposals and when?**

The Head of Corporate Finance and ICT (FD.....) has been consulted and any comments have been incorporated into the report.

**Are there any other options available for consideration?**

To not review the constitution as outlined in the report.

**Implementation Date for the Decision**

Immediately following consideration by the Committee

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**Background Papers:**

Nil

## 1. Introduction/Background

### Update on Constitution

- 1.1 Members will be aware that as part of good governance the Council's Constitution is now being reviewed twice a year. It is an obligation contained in the Constitution for the Monitoring Officer to ensure that the Council's Constitution is kept up to date and in good order (Chapter 10, Section E paragraph 29 refers). It is recognised that this is important to keep the Constitution up to date, meaningful and integral to the workings of the Council.
- 1.2 An amendment for the constitution which requires immediate referral to Council, following consideration and recommendations by the Committee concerns the Reporting of Meetings
- 1.3 On the 6 August 2014 the Openness of Local Government Bodies Regulations 2014/2095 came into force. The regulations provide that whilst a meeting of a local authority is open to the public any person attending is to be permitted to report on the meeting. The regulations further provide that a person attending a local authority meeting for the purpose of reporting on the meeting must, so far as practicable, be afforded reasonable facilities for doing so. Further, any person who attends a local authority meeting for the purpose of reporting on the meeting may use any communication method, including the internet, to publish, post or otherwise share the results of the person's reporting activities. Publication and dissemination may take place at the time of the meeting or occur after the meeting.
- 1.4 "Reporting" is defined in the regulations as:
  - (a) filming, photographing or making an audio recording of proceedings at a meeting;
  - (b) using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
  - (c) reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present
- 1.5 There is no requirement for a local authority to permit oral reporting or oral commentary on a meeting as it takes place if the person reporting or providing the commentary is present at the meeting.
- 1.6 However, should a person cause a disturbance at a meeting whilst reporting on them, for example by:
  - moving to areas outside the areas designated for the public without the consent of the Chairman,
  - making excessive noise in recording or setting up or re-siting equipment during the debate/discussion,
  - intrusive lighting and use of flash photography; or
  - asking for people to repeat statements for the purposes of recording

then the provisions within the Council's Rules of Procedure allowing the public and Members to be removed from a meeting for causing a disturbance shall apply.

1.7 It is accordingly recommended that the Rules of Procedure (Chapter 4) be amended so as to incorporate the following:

- (1) While a meeting of the Council, Cabinet, a Committee or Sub Committee is open to the public, any person attending is permitted to report on the meeting by filming, photographing or making an audio recording of proceedings at the meeting. They may also use any other means for enabling persons not present to see or hear proceedings at such a meeting as it takes place or later and may use any communication method, including the internet, to publish, post or otherwise share the results of the person's reporting activities.
- (2) Should a person cause a disturbance at a meeting whilst reporting on the proceedings, for example by:
  - moving to areas outside the areas designated for the public without the consent of the Chairman,
  - making excessive noise in recording or setting up or re-siting equipment during the debate/discussion,
  - intrusive lighting and use of flash photography; or
  - asking for people to repeat statements for the purposes of recordingthen the provisions of rules 103 to 106 (Chapter 4) (Members' conduct and disturbance by the public) shall apply.
- (3) Nothing in this rule shall allow any person to report on any part of a meeting, without the consent of the meeting, whilst the public is excluded to allow it to debate confidential or exempt matters.

1.8 Further since the last meeting of the Audit and Governance Committee the following areas have been identified for review in the Constitution:

- Terms of reference for Planning Committee so that power is delegated to from Council to Planning Committee to approve Conservation Area Appraisals
- Terms of reference for Overview and Scrutiny following receipt of the Department of Health Guidance on Health Scrutiny
- Consideration of the terms of reference of the Health and Wellbeing Board to ensure that there is clarity of purpose between the Board and Overview and Scrutiny function
- Review of processes and procedures with respect to Standards Hearings

It is proposed by officers that members form a small task group to consider these issues in more detail and to report back to the next meeting of the Audit and Governance Committee.