

CA12 - Annex 2

2014 Constitutional Review – Approval Matrix

PART A – PROPOSED CHANGES

Constitution (current section)	Proposed Change
Articles (Part 2 of Constitution)	
Article 8 Regulatory and other committees	<ul style="list-style-type: none"> • Appeals & Tribunals Sub-Committee – decisions on home to school transport appeals to be determined by a panel of officers with one independent member (not to be a councillor). The Audit & Governance Committee to continue to have governance oversight of the process.
Council Procedure Rules (Part 3.1)	
Part 3.1 – Council Procedure Rules	<ul style="list-style-type: none"> • Provide absolute right for Chairman of the Council to adjourn Full Council to take advice • Chairman’s discretion: <ul style="list-style-type: none"> ○ Cabinet questions: provide discretion to the Chairman to redirect questions for a local response by a Cabinet Member where the question has a particularly local focus ○ Rights to speak: make it explicit that the Chairman has discretion to limit the number of persons who may speak on an issue and the order of speaking; and otherwise to have discretion generally to determine if and how persons should speak, in the best interests of the efficiency of the meeting ○ Amendments: discretion on how to handle for example on how the voting on recommendations will be grouped • Themed debates: return to themed debates – the Chairman to have discretion in consultation with Political Group Leaders to allow themed debates and the necessary rules that should apply • Motions: <ul style="list-style-type: none"> ○ all the motions to Council alternating between the Groups (including the Green Group);

CA12 - Annex 2

2014 Constitutional Review – Approval Matrix

Constitution (current section)	Proposed Change
	<ul style="list-style-type: none"> ○ include a provision preventing irrelevant or time-wasting motions ○ limit the number of motions and questions a Member can put forward on written notification to 3 ● Petitions and speaking: make it clear that a petitioner’s right to speak is predicated on the presentation of a petition – and the right to speak is forfeit if one not presented. ● Voting: Permit a vote to be recognised on the basis of a ‘clear majority’ rather than taking a formal count; if adopted, include a safeguard whereby a member or agreed number of members have a right to request a formal count (separate from ‘named vote’ which is already provided for) ● Electronic voting: clarify that the right to request a named vote still applies when the vote has been taken by an electronic voting method ● Questions on notice – limit to three each; supplementary questions to remain as present, subject to Chairman’s discretion ● Amendments: process to stay as at present.
Cabinet Procedure Rules (Part 4)	
Part 4.2 & 4.3 – Cabinet	<ul style="list-style-type: none"> ● Members’ right to speak – process to remain as present but loosen up by strengthening the discretion of the Chairman to determine matters (e.g. in terms of order, number and time allotted) ● Retain the current restrictions on supplementary questions (currently one question with one supplementary or two questions and no supplementary) but allow Chairman’s discretion around the number of questions or multi part questions a councillor may ask where (taken together) these would not, in the Chairman’s view,

CA12 - Annex 2

2014 Constitutional Review – Approval Matrix

Constitution (current section)	Proposed Change
	<p>take up the whole of the allotted time or otherwise prejudice any other constitutional rights</p> <ul style="list-style-type: none"> • Para 2.5 relating to putting agenda items on the Cabinet Agenda. Add a requirement to include items as a result of motions approved at full Council.
	<ul style="list-style-type: none"> • Rule (9) on agenda items. Currently commitment to put an item on agenda if received either 10 or 15 days before with an expectation that there will be a report. Bring these rules into line with the rules for committees and sub-committees which initially commit only to give an oral report if less than 20 days' notice given. [See Part 9.3 Protocol on Members Rights and Responsibilities – Rule 7 Rights of Members to Place Items on Agendas, Para (d).]
Codes and Protocols	
Part 9.3 Protocol on Members' Rights and Responsibilities	<ul style="list-style-type: none"> • Insert reference to the Council's Protocol on filming/recording/commentating in meetings – implications for councillors • Para 8: take out the rights for Councillors to receive meeting papers on request, unless exceptional reasons apply.
Part 9.4 Members' Planning Code of Practice	<ul style="list-style-type: none"> • Issue an updated Planning Code based on existing the code, consistent with the district councils in Oxfordshire and in consistent also with the Lawyers for Local Government Model Code • In addition, outside the Constitution, supply members with a protocol of guidance on <i>Bias and Predetermination</i> reflecting recent government guidance, best practice and legal case law
Petition Scheme	
Part 11 Petition Scheme	The Petition Scheme is no longer a statutory requirement and in practice no petitions under that scheme have ever been triggered and

CA12 - Annex 2
2014 Constitutional Review – Approval Matrix

Constitution (current section)	Proposed Change
	the public already have a right to petition and address Full Council. Delete the Scheme as other mechanisms are available.
New Section	
Index	Introduce an Index for ease of use and better to facilitate cross-referencing.

CA12 - Annex 2

2014 Constitutional Review – Approval Matrix

PART B: ADMINISTRATIVE CHANGES

'Tidy up' provisions required to “comply with law, give effect to decisions, correct errors or otherwise for accuracy or rectification” (as delegated to the Monitoring Officer under Article 14 of the Constitution).

Constitution	Proposed Change
Part 1 – Key Decisions	Revert to statutory definition of a 'key decision' with footnote giving explanatory guidance on the definition of 'significant'
Part 2 – Articles	
Article 2 – Role of members	Include a reference to the purpose of the Locality Meetings in the 'roles of members'
Article 4 – Full Council	Policy Framework: The Corporate Plan will be approved by Council four-yearly with annual updates on progress being reported to Cabinet.
Article 6 – Para 7(c) Cabinet	Provision for Cabinet members to set up groups to assist them. Delete as no longer required, as this is now covered by the provisions relating to Cabinet Advisory Groups
Article 3 - Citizens	Reference the statutory right of citizens to record/film/commentate at formal meetings
Article 6A – Para 2 (ix)	Amend “nevertheless groups may not wish to meet in public”. Currently the negative is missing.
Article 6A and 6B	Cross reference in Article 6 and move detail (6A and 6B) into Cabinet procedure Rules
Article 7 Overview and Scrutiny – Para 4 Education Scrutiny Committee	Education Transformation Board, no longer exists, amend 4(i)(a) and 4(i)(b) to reflect change.
Article 8A – Health and Wellbeing Board	<ul style="list-style-type: none"> • Update names of organisations and number and types of sub-boards • Add role of JMGs (Adult Partnership Board abolished) • Amend Para 4 to say: “Meetings of the Board will be chaired by the Leader of the Council and the Vice-Chairman will be its

CA12 - Annex 2

2014 Constitutional Review – Approval Matrix

Constitution	Proposed Change
	<p>Clinical Chair as notified to the Monitoring Officer of Oxfordshire County Council.”</p> <ul style="list-style-type: none"> • Para 10 – clarify the expectation of frequency of meetings –public and informal
Article 10 – Agency, Joint and Partnership Arrangements	<ul style="list-style-type: none"> • Add a section about the principles of Partnership Working and how they report back to the Council • Add Oxfordshire Growth Board as a joint committee of the Council.
Article 11 - Officers	<p>Part 1 – add post of Director of Public Health and principal areas of service. Add footnote to specify that the Director of Public Health is the Council’s Chief Medical Advisor within the terms of the Mental Health Act 1983.</p>
Article 11 – Officers	<ul style="list-style-type: none"> • Terminology – provide greater clarity of titles used and so delete the term “Chief Officer” and clarify that the term “Director” (and the delegation accruing to the post) should include the 3 statutory posts – Head of paid service (Chief Executive), Section 151 Officer (Chief Finance Officer) and Monitoring Officer (Chief Legal Officer) also the Chief Fire Officer and Chief Internal Auditor?. If so apply it equally to Part 7.3 Scheme of Delegation
Article 12 – Decision Making	<p>Para 1 – responsibility for decision making: last sentence states that the record of responsibility for who-decides-what ‘is set out in this Constitution’. This suggests a separate specific document. Amend to cross-refer to scheme of delegation.</p>
Article 12 – Decision Making	<ul style="list-style-type: none"> • Para 3 – key decisions taken by officers need to be in the Forward Plan. Clarify what is expected with regard to officer executive decision making to bring into line with Executive Arrangement Regulations. Add section in this Article, as for other decision makers, from Rule 4 onwards i.e. ‘Decision making by officers’?

CA12 - Annex 2

2014 Constitutional Review – Approval Matrix

Constitution	Proposed Change
Part 3 - Council Procedure Rules	
Part 3.1 – Council Procedure Rules	<ul style="list-style-type: none"> • Rectify inconsistency between Para. 18.1 Signing of Minutes (no discussion other than accuracy) and 1.1.2(iv) which allows for 'receiving of any info arising from them' • Members and members of the public: clarify that the word Member means 'member of the council'
Part 4 - Cabinet Procedure Rules	
Part 4.2 Cabinet Procedure Rules	<p>Rule 1.2.4 - for clarity amend to read '2 clear working days'</p> <p>Rule 2.3 - Add new (vi) - any reports from Cabinet Advisory Groups.</p> <p>Rule 2.3 - Update footnote.</p> <p>Rule (11) Scrutiny Committee reports – current wording reflects a time when there were far more formal scrutiny review reports and they all went to Cabinet. It is sensible to keep it in so that when needed the process is there but it is not appropriate that all outcomes from Scrutiny go by this formal route and therefore that the word “will” is changed to “may” to reflect current practice?</p> <p>Rule (11). Nothing in Constitution refers to tracking the outcomes from Scrutiny Reviews. Add an extra paragraph to do this.</p>
Part 6 – Scrutiny Procedure Rules	
Part 6.2 Scrutiny Procedure Rules	<p>Rule (1) – Cross reference to spell out how they conduct their proceedings i.e. which parts of Council Procedure Rules apply.</p> <ul style="list-style-type: none"> • Rule (2)(b) – clarification of voting rights for Co-opted members. Education Scrutiny Committee deals solely with education functions – not the wider Children’s Services, which has been the case in the past. • Clarify that co-opted members can vote on whether a Working Group should be set up or the matter dealt with by Committee as whole. Rule (8) on quorum. State the Rule rather than need to find it in Council Procedure Rules.
Part 6.3 Protocol on public participation	Scrutiny context - update to remove out of date references e.g. contact details for the team under procedure for co-ordination

CA12 - Annex 2

2014 Constitutional Review – Approval Matrix

Constitution	Proposed Change
	stakeholder ideas.
Part 7 – Scheme of Delegation	
Part 7.1 – Schemes of Delegation	Update post titles and consider inclusion of wider management structure (i.e. “top three levels of the organisation” – consistent with the publicity requirements of the Code on Data Transparency 2014).
Part 7.2 - Section not in use	Delete section and renumber others accordingly
Part 7.3 – Schemes of Delegation	<ul style="list-style-type: none"> • Para 1: Terminology - clarify the Council’s understanding of the range of roles that are to be regarded as ‘directors’ within the terms of this section and others (e.g. contract and financial rules); also whether there is significance to the term ‘officers’ (as encompassing Chief Executive, Directors and other chief officers’) • Para 1.5: add “(e) any exercise of delegation making incorrect references to any part of the Constitution, relevant statute, legislation, or bye-law shall not of itself invalidate the authorised delegation. • Para 2: specify that all directors are official deputies for the Chief Executive and how deputisation will follow rotational pattern etc. • Para 6: Chief Executive’s authorisations - "any exercise of these functions shall be reported to the Cabinet or other relevant committee or sub-committee”. The reporting is currently done on a quarterly basis. New regulations will require that a record of the decision should be published on the web site as soon as possible. • Para 6: add to the functions of County Solicitor (as Monitoring Officer) has the statutory role under Freedom of Information Act for determining that Section 36 exemptions apply (‘prejudice effective conduct of public affairs/ free and frank exchange of views etc.’) • Unpaid leave – mechanism for approval (beyond 12 months): request for a period of unpaid leave exceeding 12 months was a responsibility of former Democracy and Organisation Committee that passed to Remuneration Committee, although not perhaps explicit.

CA12 - Annex 2

2014 Constitutional Review – Approval Matrix

Constitution	Proposed Change
	<p>HR have also used the route of the Leader and Chief Executive to get this leave authorised which seems heavy handed. HR propose that unpaid leave beyond 12 months and any other exceptional request for any sort of leave over and above the limits specified in Part 7.3 section 4 are delegated to agreement by the Director, Chief HR Officer and Chief Finance Officer. That would cover the service, HR policy and financial / pension implications. Supported by Remuneration Committee at its meeting in September 2014.</p>
Part 8 – Access, Contract, Financial and Other Procedure Rules	
Part 8.1 – Access to Information Procedure Rules	<ul style="list-style-type: none"> • Insert reference to the rules/protocol re: public filming/recording/commentating in meetings • Add the protocol as an annex
Part 8.3 – Contract Procedure Rules	<p>Reordering the document to more closely align with the chronology of a procurement process and the use of chapters to make it easier to find relevant provisions. Proposed chapters are:</p> <ol style="list-style-type: none"> 1. Introduction 2. Pre-procurement 3. The procurement process 4. Contract award 5. Post-award 6. General <p>To improve the ease of use of the document it is proposed that some definitions are added within the text and that more use is made of footnotes</p>
Part 8.2 – Financial Procedure Rules	<ul style="list-style-type: none"> • Rules 19, 40, 44: Changes to Capital approval authorisation • Rule 48: Change in reporting arrangements – requests for virements included in directorate monitoring reports to be included in the financial monitoring report to Cabinet

CA12 - Annex 2

2014 Constitutional Review – Approval Matrix

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	<ul style="list-style-type: none"> • Rule 58: Change in arrangements for ‘provisions’ • Rule 59: Updated to include new Accounts and Audit Regulations provision for undertaking internal audit of accounting records and systems of financial control • Rule 80-82: New section on ‘Loans’ including responsibilities of Chief Finance Officer and Directors • Rule 83-86: Imprest accounts and Trust funds are now dealt with in separate sections • Rule 92: Increased segregation of duty is required – Directors therefore required to ensure a segregation of duties between staff with responsibility for identifying income (including the raising of invoices) and those with responsibility for the cash collection of the income
Part 8.4 – Officer Employment Procedure Rules	Update job and committee titles.
Part 9 – Codes and Protocols	
Part 9.1 – Members’ Code of Conduct	Gifts and hospitality: insert guidance to advise members that, while not statutory to do so, gifts and hospitality should ideally be registered
Part 9.2 – Gifts and hospitality policy	Section outdated and no longer needed. Delete.
Part 9.3 Protocol on Members’ Rights and Responsibilities	(Para. 9(f)): Local members have rights where Cabinet considers a matter ‘directly relates to an Electoral Division’. Include a definition of what constitutes such a matter to clarify that it relates to all reports and not only to single Division matters.
Part 10 – Members’ Allowances Scheme	
Part 10 Member Allowances Scheme	Implement any decision taken arising from the Autumn 2014 Allowances Review
Legislative Amendments	
Implement the <i>Local Audit and Accountability Act 2014</i>	Amendments to the Constitution to reflect the requirement to set up and consult an independent auditor panel; and to reflect the amendments made by the Act to the referendum provisions of the Local Government Finance Act 1992 if a council tax increase is

CA12 - Annex 2

2014 Constitutional Review – Approval Matrix

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	<p>intended above the Secretary of State's limit. Provisions to be updated:</p> <ul style="list-style-type: none"> • Part 2, Article 4: appointment of auditors is a function of the Full Council (not an officer, committee, sub-committee nor of the executive) • Part 2 Article 8: Regulatory and Other Committees – if it is agreed that the Auditor Panel should either be a separate committee or form part of the duties of an existing committee, this article would need amendment. OTHERWISE if not appointed as a committee, a separate/new article would be required setting out the terms of reference etc. Regulations awaited and a decision will need to be taken at a later date or Council could delegate to County Solicitor in consultation with the Audit & Governance Committee. • Part 2, Article 9: prepare to amend terms of reference of the Audit & Governance Committee to delete references to the 'Audit Commission' when this is formally abolished in 2015. • Part 3.2 budget and policy framework: reference in para (n) to update LGFA section

CA12 - Annex 2

2014 Constitutional Review – Approval Matrix

PART C: ISSUES RAISED THROUGH THE GOVERNANCE REVIEW BUT NOT PURSUED

Issue	Reason not pursued
Full Council Meetings	Some members object to ‘political point scoring’ at Full Council meetings. Given that the meeting involves all 63 members of the Council, representing various party groups, the occurrence of a political dimension is not itself surprising or – to some extent – avoidable. In any event, it lies with members themselves, and political groups, to determine the culture and nature of debate.
Scrutiny arrangements	A small number of members were concerned at the abolition, previously, of a scrutiny committee for adult social care. However, the Chairman of the Performance Scrutiny Committee has already instigated a work programme which will provide a more focused challenge across specialised areas. This work programme will be kept under review.
Article 5 – Chairman of the Council Chairman should receive training and should possibly serve for 2 years	Recognise the rationale for this, given the high profile nature of the Chairman’s role within meetings of Full Council and as the civic and ceremonial head of the Council. However, no consensus that lengthening the service to two years will either be equitable or sustainable. Training is always available in any case either at the request of the member or at the discretion of the Chief Executive and/or Monitoring Officer, in the best interests of the Council.
Article 8 – Corporate Parenting Group be included as a formal sub-committee of the Council	<ul style="list-style-type: none"> • Corporate Parenting Group – this should <u>not</u> be designated as a formal sub-committee of the Council (i.e. subject to Schedule 12A publicity requirements)

CA12 - Annex 2

2014 Constitutional Review – Approval Matrix

Issue	Reason not pursued
Council Procedure Rules: Length of Full Council meetings should be extended to allow them to go on beyond 3.30 p.m.	No consensus on this. Council made a clear decision to limit the normal end time to 3.30pm under a previous review. Current provisions already allow for the Chairman to vary the (start and) end time following consultation with Group Leaders in any given instance.
Council Procedure Rules: Amendments to Motions: <ul style="list-style-type: none"> • Schedule to have times for the Amendment and the main Motion, which the Chairman will keep to; • Speaking on the Amendment limited to one minute • Limit numbers speaking on Amendment 	Important not to restrict members opportunity to speak.
Part 4.2 & 4.3 – Cabinet Procedure Rules: Consider publishing Cabinet Members’ answers to written questions further in advance of meetings, in an addendum	Answers are already prepared and published in advance. To publish them even earlier would lead to an unreasonable and potentially unachievable burden on officers.