

**Constitution Amendment - Delegations, Decisions and
Proceedings of the Executive (A2. 7.6.2)**

Final Decision-Maker	Council
Lead Director	Angela Woodhouse, Director of Strategy, Insight and Governance
Lead Officer and Report Author	Ryan O'Connell, Democratic and Electoral Services Manager
Classification	Public
Wards affected	None

Executive Summary

This report requests some changes to part A2, 7.6.2 of the new constitution that would benefit from being addressed immediately rather than waiting until the 6 month review point.

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

That the following amendments to the Constitution be recommended to Council for approval:

1. Part A2, 7.6.2 be amended to:

~~"No Key Decision or Other Material Decision in respect of a matter shall be placed before the Executive or any individual Member on the Executive, no report prepared for them by Officers nor any decision shall be made by the Executive or any individual Member on the Executive on such a matter unless:~~

- (a) A report on the matter has previously been considered by a meeting of a Policy Advisory Committee;
- (b) ...
- (c) ..."

2. Part 7.6.2 be amended with the addition of:

"(h) The matter relates to the Executive acting as Corporate Trustee for the Cobtree Manor Estate, or the Queens Own Royal West Kent Regimental Trust."

Timetable	
<i>Meeting</i>	<i>Date</i>
Democracy and General Purposes Committee	21 September 2022
Council	28 September 2022

Constitution Amendment - Delegations, Decisions and Proceedings of the Executive (A2. 7.6.2)

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	If the second change is not implemented the Council will be unable to discharge its functions as Corporate Trustee for the Cobtree Manor Estate and the Queen's Own Royal West Kent Regimental Trust.	Democratic and Electoral Services Manager
Cross Cutting Objectives	None directly	Democratic and Electoral Services Manager
Risk Management	See below	Democratic and Electoral Services Manager
Financial	None	Democratic and Electoral Services Manager
Staffing	None	Democratic and Electoral Services Manager
Legal	These changes represent minor amendments to the constitution and do not conflict with any legislation or regulations.	Democratic and Electoral Services Manager
Privacy and Data Protection	None	Democratic and Electoral Services Manager
Equalities	None	Equalities & Communities Officer
Public Health	None	Democratic and Electoral Services Manager
Crime and Disorder	None	Democratic and Electoral

		Services Manager
Procurement	None	Democratic and Electoral Services Manager
Biodiversity and Climate Change	None	Democratic and Electoral Services Manager

2. INTRODUCTION AND BACKGROUND

- 2.1 The Council's constitution came into effect in May 2022 with the change from the Committee to the Executive system. However, some issues with Part A2, 7.6.2 have come to light that impact on the ability of the Executive to operate effectively and this report suggest a wording changes/additions that would resolve it.
- 2.2 One such change was reported to the previous meeting of this Committee where it was deferred to this meeting for consideration. As it stands the wording of the constitution in Part A prevents officers from publishing reports for the Executive until they have been considered by a Policy Advisory Committee (PAC), or unless they are urgent.
- 2.3 This has the consequence that an item can be scheduled to go to a PAC, and be published on the agenda for it, but the agenda for an Executive meeting (either collectively or individually) cannot be published until the day after the PAC. This inevitably lengthens the decision-making process required on items and increases the likelihood of items having to be declared urgent.
- 2.4 It is therefore recommended that the following change be made in the Constitution to Part A2, Provision 7.6.2:
- ~~"No Key Decision or Other Material Decision in respect of a matter shall be placed before the Executive or any individual Member on the Executive, no report prepared for them by Officers nor any decision shall be made by the Executive or any individual Member on the Executive on such a matter unless: -~~
- (d) A report on the matter has previously been considered by a meeting of a Policy Advisory Committee;
 - (e) ...
 - (f) ..."
- 2.5 This change does not circumnavigate the Policy Advisory Committee, it will still be the case that prior to an Executive decision the matter will have to be considered by a Policy Advisory Committee.
- 2.6 Secondly, an additional issue with Part A2, 7.6.2 has been identified. As the Council has set out that the discharge of the role of Corporate Trustee for both the Cobtree Manor Estate and the Queens Own Royal West Kent

Regiment Museum Trust is an Executive function, and is carried out by Executive Committees, they are caught by the provisions in 7.6.2 which prevents the Executive from considering those items unless they trigger one of the exceptions ('unless...'), this includes a Policy Advisory Committee having given them consideration.

- 2.7 However, Policy Advisory Committees cannot consider such matters as they relate to the role of Corporate Trustee, not to portfolios (or the Council's interest which the Lead Members represent as portfolio holders). This restriction applies because the constitution sets out that portfolios will be allocated to Policy Advisory Committees and that Policy Advisory Committees cannot consider things outside of their remit.
- 2.8 The recommended resolution to this, for the smooth function of both Trust Committees is to add an additional exception '(h)' that applies to Corporate Trustee functions (and specifically to Cobtree Manor Estate and Queens Own Royal West Kent Regiment Museum Trust):

"(h) The matter relates to the Executive acting as Corporate Trustee for the Cobtree Manor Estate, or the Queens Own Royal West Kent Regimental Trust."

3. AVAILABLE OPTIONS

- 3.1 The committee can recommend the changes to council for approval, suggest alternative amendments before recommending them to Council, or not recommend any changes go forward.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 That the recommended amendments be put to Council for approval for the reasons set out above.

5. RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The first change was considered and deferred by the Committee at its previous meeting.
-

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 If approved by Council the changes will be given immediate effect.

8. REPORT APPENDICES

None

9. BACKGROUND PAPERS

None