



## ADUR & WORTHING COUNCILS

Joint Audit and Governance Committee  
13th July 2023

Key Decision [Yes/No]

Ward(s) Affected:

### **Amendments to the Constitution**

### **Report by Monitoring Officer**

### **Executive Summary**

#### **1. Purpose**

- 1.1. This report seeks to update Members of the Joint Audit & Governance Committee with recent amendments made to Adur District Council's and Worthing Borough Council's Constitutions by the Monitoring Officer.
- 1.2. The Monitoring Officer has a duty to maintain an up-to-date version of the Council's Constitutions and to ensure that they are publicly available. The Monitoring Officer has the authority, as set out in Article 11, paragraph 11.03, of each Constitution, to "make minor and inconsequential amendments to the Constitution at any time".

#### **2. Recommendations**

- 2.1 Members of the Joint Audit & Governance Committee are asked to consider the amendments in this Report and note the use of the Monitoring Officer's delegation to make minor and inconsequential amendments.

### **3. Context**

- 3.1. In the October 2022 Council meetings, both Adur District and Worthing Borough Councils approved the Chief Executive's Corporate Strategy set out in Our Plan. As a consequence, operational changes have been made to Directorates, the Services within them and the titles given to the Senior Leadership Team. Attached as an Appendix to this Report is a copy of the revised structure chart.
- 3.2. At Article 11.01 (d) of the Constitutions it is written that the 'Chief Executive will from time to time report to Full Council on the overall departmental structure of the Council, showing the management structure and deployment of Officers. There have been operational and consequential amendments to the senior leadership structure arising from prior approval of Our Plan. A copy of the revised structure chart is attached to this Report and the Chief Executive Officer will be updating both Council in the July meetings.
- 3.3. It is also a year since the former Interim Monitoring Officer carried out a review of the Constitutions. Working with the document for this period of time, has highlighted some minor and inconsequential amendments required to clarify some of the changes that have been made and previously approved by both Councils.

### **4. Amendments arising from approval of Our Plan**

- 4.1. Following the approval of Our Plan and the operational amendments to the structure chart, the Monitoring Officer has made the following minor and inconsequential amendments to the Constitution:-
  - The Scheme of Delegations has been updated to reflect the new Officer titles, and also to move existing delegations into the correct directorates.
- 4.2. Under the Councils' Constitutions the power to appoint Proper Officers is delegated to the Chief Executive following consultation with the Monitoring Officer:-
  - The Proper Officer and Authorised Officer Functions section of the Constitution at Part 4, has been updated to reflect the changes to job titles. For functions relating to Democratic

Services, the Proper Officer is now the Director for Sustainability and Resources, rather than the Director for Communities and Wellbeing and general amendments throughout the Constitution have been made to reflect this.

## **5. Other Minor and Inconsequential Amendments**

- 5.1 After working with our updated Constitutions certain typographical amendments have been required as well as other inconsequential amendments to clarify the previously agreed amendments by both Councils.
- 5.2 In addition to the amendments at Paragraphs 4 and 5.1 above, there is also a minor and inconsequential amendment to update the Joint Senior Staff Committee Terms of Reference. In January 2017 the Joint Governance Committee approved a report by the Monitoring Officer which amended Members' involvement in the appointment of and discipline of the Councils' Senior Officers. The Report required consequential changes to the Officer Employment Procedure Rules and terms of reference for the Staffing Committees. In the recent recruitment process it has come to light that the consequential amendment to the Joint Senior Staff Committee was not made and this is referred to below under Part 3 - Responsibility for Functions.
- 5.3 Also at Part 3 below, are amendments to the Cabinet Portfolios arising after the Worthing Borough Council Annual Meeting in May.

### Part 1 - Summary and Explanation

- ADC - Paragraph 1.09 - "Error! Bookmark not defined" deleted.

### Part 3 - Responsibility for Functions

- Councillor names within Cabinet Portfolios updated in WBC Constitution.
- Joint Senior Staff Committee Terms of Reference - "To be responsible for the function of the appointment of the Non-Statutory Chief Officers and Deputy Chief Officer" deleted to reflect the decision of both Councils in February 2018.

### Part 4 - Procedure Rules

- 12.8 - Record of Questions and Answers - Now reads: “(a) Questions asked on notice under Procedure Rule 12 will be recorded in the minutes, as will any written answer provided. This includes any questions that are asked but not answered at the meeting in the time allotted.”
- Clause 13 - Main Opposition Priority Motion - Clarification of procedure which now reads:
  - “(a) The largest political group not forming part of the Administration may submit one item of business to be placed on the agenda of an ordinary meeting of the Council to be treated as Priority Opposition Business. The submission shall include a brief description of the item of business (which will allow members and the public to understand the nature of the topic to be discussed) and the name of the member presenting it. The description and the name of the presenter shall be included on the agenda. Notice of the item must be submitted no later than the deadline for the receipt of motions (Rule 14).
  - (b) Priority Opposition Business shall take the form of a statement and the total time allowed for the item will be 15 minutes. The member named on the agenda as presenting the statement may speak for up to five minutes. A member responding on behalf of the Administration may speak for up to five minutes. The Leader of the largest political group not forming part of the Administration may exercise a right of reply for up to five minutes. The matter under discussion shall not be put to the vote and no other questions or debate shall be allowed.
  - (c) Priority Opposition Business shall not be taken at the Annual Meeting, the meeting convened to approve the Council's budget or a meeting called for a specific purpose.”
- Motions on Notice - The working group that went through the constitutional review in 2022 agreed that all Motions should be able to be debated by Council. However the amendments made to the automatic referral of a motion (without debate) also removed the requirement for the Motion to be referred to the correct Cabinet or Committee for a decision. A clarification has therefore been re-inserted to ensure that after debate the Motion is then referred to the appropriate decision maker, at reinstated paragraph 14.5:-

“ Referral of Motions to the Cabinet or a Committee”

All accepted motions shall be debated by Full Council. Where a decision is required by the Cabinet or a Committee the motion will automatically be referred to the next practical meeting of the Cabinet or Committee.”

- Rules of Debate - typographical amendment to include capital letters for the heading at 16.21 “Council - Committee Recommendations and Reports”
- Overview and Scrutiny Procedure Rules - Working Groups paragraph 6.1 amended to read “Working Groups may be established by the Committee as...”
- Joint Overview and Scrutiny Procedure Rules - Working Groups paragraph 6.1 amended to read “Working Groups may be established by the Committee as...”
- Member Complaints and Standards Sub-Committee Procedure Rules -  
  
Paragraph 2.1 amended to add “using the online complaints form”  
Paragraph 3.1 amended to add “..acknowledge receipt to the Complainant and...”
- Officer Employment Procedure Rules - operational amendment at paragraph 2.4.1 to include “(d) The Head of Paid Service will notify the Leader of the Council in advance of any recruitment process for the appointment of a non-statutory Chief Officer.”

#### Part 5 - Codes and Protocols

- Monitoring Officer Protocol - Paragraph 3.3 (for operational continuity) amended to include “ The Head of Paid Service shall nominate one of the outgoing Monitoring Officer’s Deputies to continue their appointment as Deputy until the new interim or permanent Monitoring Officer is appointed.”

#### Part 6 - Members’ Allowances Scheme- after approval by Full Council in February 2023

- Date of approval of Allowance Scheme amended from December 2019 to February 2023.

- Date of allowances updated to 2023/2024 in WBC Constitution
- Basic Allowance figures updated
- Special Responsibility Allowances figures updated
- “Child Carer Allowance” and “Dependent Person Carer Allowance” deleted under Other Allowances in table
- “Dependent Person Carer Allowance and Child Carer Allowance” section added.
- “Parental Leave” section added.
- “Indexing of Allowances” section added.
- “Notes” section added in WBC Constitution

#### Part 8 - Joint Arrangements - Adur

- Constitution of the Adur Homes Management Board section amended at 3.1 to reflect composition of the Board following the Referral Report to JAGC

### **5. Minor and Inconsequential Amendments arising from clarification questions by Members**

#### **5.1 Part 2 - Articles of the Constitution**

- Article 5 - Chairing the Council - Wording added for WBC Constitution:  
“(iv) Although as a Councillor the Mayor will have been elected through their political party the actual role of the Mayor is non-political and the office of Mayor is not to be used to promote or support any particular political party, including the use of regalia for the purposes of electioneering.
- Article 5 - Chairing the Council - Wording added for ADC Constitution:  
“(v) Although as a Councillor they will have been elected through their political party, the actual role of the Chair is non-political and the office of Chair is not to be used to promote or support any particular political party, including the use of regalia for the purposes of electioneering.

### **6. Financial Implications**

- 6.1. There are no financial implications arising from this report.

### **7. Legal Implications**

- 7.1. Article 11, paragraph 11.03, of the Councils' Constitutions sets out the Functions of the Monitoring Officer and states "The Monitoring Officer has the delegated authority to make minor and inconsequential amendments to the Constitution at any time".

### **Background Papers**

- Joint Governance Committee Report 24th January 2017 - Elected Member Involvement in the Appointment and Discipline of the Councils' Senior Officers and Minute extracts from Adur District Council and Worthing Borough Council dated February 2017;
- Minutes extracts from Adur District Council and Worthing Borough Council dated October 2022 (Approval of Our Plan);
- Minutes extracts from Adur District Council and Worthing Borough Council dated February 2023 (Member Allowances Scheme)

### **Appendices**

- Revised Structure Chart
- Links to the [Adur District Council](#) and [Worthing Borough Council](#) Constitutions.

### **Officer Contact Details:-**

Joanne Lee

Assistant Director and Monitoring Officer, Legal & Democratic Services

01903 221134

[Joanne.lee@adur-worthing.gov.uk](mailto:Joanne.lee@adur-worthing.gov.uk)

## **Sustainability & Risk Assessment**

### **1. Economic**

Matter considered and no issues identified.

### **2. Social**

#### **2.1 Social Value**

Matter considered and no issues identified.

#### **2.2 Equality Issues**

Matter considered and no issues identified.

#### **2.3 Community Safety Issues (Section 17)**

Matter considered and no issues identified.

#### **2.4 Human Rights Issues**

Matter considered and no issues identified.

### **3. Environmental**

Matter considered and no issues identified.

### **4. Governance**

The risk of not having up-to-date Constitutions is that procedures and practices may not be transparent, fair and consistent and may increase the risk of legal challenge.