



ADUR & WORTHING
COUNCILS

Joint Audit and Governance Committee
26 September 2024

Key Decision [Yes/No]

Ward(s) Affected:

Amendments to the Constitution

Report by the Monitoring Officer

Executive Summary

1. Purpose

1.1. This report seeks to update Members of the Joint Audit & Governance Committee on proposed amendments made to Adur District Council's and Worthing Borough Council's Constitutions by:-

(a) the Monitoring Officer under a delegated authority to "make minor and inconsequential amendments to the Constitution at any time" following the last report relating to constitutional amendments to the Joint Audit and Governance Committee on 21st March 2024; and

(b) An amendment proposed by the Monitoring Officer which is more than minor or consequential and requires Joint Audit & Governance recommendation to Full Council.

2. Recommendations

2.1. The Joint Audit and Governance Committee is asked to consider the matters raised in this report and:-

- a) note the use of the Monitoring Officer's delegation to make minor and inconsequential amendments.
- b) endorse the amendment to the Constitutions proposed by the Monitoring Officer at Paragraph 5 and recommend the proposed amendment to both Full Councils for their approval.

3. Context

3.1. The Monitoring Officer has a duty to maintain an up-to-date version of the Councils' Constitutions and to ensure that the Constitutions 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".

4. Minor and Inconsequential Amendments made by the Monitoring Officer under Delegated Authority

4.1. Part 3 - Responsibility for Functions

- ADC and WBC - The Cabinet Member Portfolios and policy advisors have been updated.
- ADC and WBC - The Illustrative A-Z of Service Areas / Cabinet Portfolios & Committees are updated to reflect Cabinet Member Portfolio changes.
- ADC and WBC - In 2021 both Adur and Worthing Full Councils approved the adoption of the Local Government Association Model Code of Conduct including amendments to the Complaints and Standards Sub-Committee Procedure Rules. Full Councils agreed that a Standards Sub-Committee would be made up of three voting Councillors from the Subject Member's authority. Although this decision was reflected in the constitution, the position was not updated in the Terms of Reference for the Joint Audit & Governance Committee. The Monitoring Officer has therefore rectified this by making the following amendment to the terms of reference at paragraphs (g) and (h) of the general section to read as follows:

“(g) A Sub-Committee (other than a Standards Sub-Committee) will consist of 6 Elected Members (3 appointed by the Council and 3 by the Borough Council of Worthing) and 1 Independent Person for Audit purposes. The quorum of any Sub-Committee shall be 4.

“(h) A Standards Sub-Committee shall have the terms of reference set out in the Members’ Complaints and Standards Sub-Committee Procedure Rules and shall be made up of 3 Members from the Subject Member’s Council with a quorum of 3. In addition 1 Independent Person for Standards matters shall sit on the Sub-Committee and 1 Parish representative may sit on the Sub-Committee when determining a Standards matter relating to a Parish Councillor. The Parish Member cannot be from the same Parish as the Subject Member complained of and should be from the other Parish within the District of Adur. The Independent Person and the Parish representative will be co-opted non-voting Members of the Sub-Committee. ~~The quorum of any Sub-Committee shall be 4.~~

- ADC and WBC - In March 2024 the Joint Audit & Governance Committee recommended to both Full Councils the adoption of the Housing Ombudsman Complaint Handling Code and the appointment of the Cabinet Members with the housing portfolio to be the ‘Members Responsible for Complaints’ (MRC) under that code. The Committee also noted that the MRC (through Officers) is to report to the Committee as required by the Code and at paragraph 2.5 of the March report.

On approval of both Full Councils the Monitoring Officer has updated the Member Portfolios for Housing & Citizen Services in the Adur and Worthing Constitutions and has amended the Joint Audit & Governance Terms of Reference at Paragraph 11 to reflect the reporting requirement as follows:- *“To receive regular reports on the performance of the Corporate Complaints Process, Local Government Ombudsman referrals, Housing Ombudsman Complaints Handling Code, Annual Governance Statement and Code of Corporate Governance and to recommend revisions to related policies and procedures, as appropriate.”*

4.2. Part 4 - Procedure Rules

- ADC and WBC - The Officer Scheme of Delegations has been amended to reflect the changes made to the Senior Management Structure, i.e. the deletion of the post of Head of Community, Capacity & Resilience, which has resulted in delegations under paragraphs 3.2.1 and 3.2.2 of the Officer Scheme of Delegations being delegated to the Head of Place. Delegations at 3.2.3 to 3.2.6 have been deleted from this section of the Scheme of Delegations as they are already held by other post holders elsewhere in the Scheme (namely the Assistant Director Operations & Sustainability for those relating to regulatory functions, Health & Safety at Work legislation and animal welfare, and the Assistant Director Legal & Democratic Services for the determining of whether a simple caution should be administered following an investigation into an alleged criminal offence).
- ADC and WBC - The Officer Scheme of Delegations was also amended at section 3.5 for the Head of Planning, to clarify the wording of existing delegations 3.5.1 and 3.5.2 as follows:

“3.5.1 - All matters relating to the naming and numbering of streets (which includes creating new addresses and maintaining the Local Land and Property Gazetteer).”

3.5.2 - To issue and serve notices pursuant to the Building Act 1984 (as amended), The Building Safety Act 2022 and Building Regulations currently in force, and to carry out works in default.”

5. Further amendments requiring Member consideration and approval (and which are more than minor and inconsequential)

- 5.1 On 17th July 2024 the Joint Strategic Committee (JSC) approved the end of the Pilot Scheme for use of JSC Sub-Committees and recommended an amendment to the Joint Committee Agreement. A copy of the [Report](#) to JSC is listed as a background paper to this report.
- 5.2 Under the Joint Committee Agreement (JCA) all matters come before a Joint Committee as Joint Matters, unless they are Reserved Matters by Schedule 1 of the JCA. These include each Council's Budget; the Local Plan; or a matter related to the delivery of Adur Housing stock.

5.3 To date there has been a historic and unwritten agreement between Members so that Joint Matters which substantially affect only one authority at a Joint Committee, are only discussed, debated and voted on by the relevant authority. However it has been recognised that with additional financial pressures, a shared officer service and a desire to work more collaboratively there will be matters which come before the Committee which are not reserved matters and therefore classified as 'joint matters' but which substantially affect one council more than the other for which the unwritten agreement has generally come into play.

There is an existing voting protection at paragraph 6 of the Joint Committee for Reserved Matters only, which protects Members of one Council being outvoted by the other. The voting protection currently applies to the Joint Strategic Committee, Joint Audit & Governance Committee and to the Joint Overview and Scrutiny Committee.

The JSC has recommended to the Joint Audit & Governance Committee an amendment to the voting protection so that it reads:-

This Clause applies where there is a matter which is 'solely' in the province of one Council and has not been 'reserved' to the relevant Executive or sub-committee under clause 4.1(l) or the matter is substantially in the province of one Council as determined by the Proper Officer . This clause does not apply to decisions of JSSC or JSfC.

Rather than rely on the unwritten agreement the amendment enables Members of the Joint Audit & Governance Committee to have more comfort to debate (if so wanted) and vote on all joint matters giving the benefit of relevant experience or knowledge but with the safety of the voting protection at paragraph 6 of the JCA, knowing that if a matter substantially affected Adur or substantially affected Worthing, then the Committee as a whole would not be able to outvote the Members of the relevant authority.

The Monitoring Officer invites Members of the Committee to consider the proposed amendment and recommendations within this report.

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

- [Adur District Council Constitution](#)
- [Worthing Borough Council Constitution](#)
- [Joint Strategic Committee 17.07.2024](#)

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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.