



Joint Governance Committee  
31 May 2022

## ADUR & WORTHING COUNCILS

Ward(s) Affected: None

### **Modernising and Updating the Councils' Constitutions**

#### **A Report by the Monitoring Officer**

#### **Executive Summary**

##### **1. Purpose**

- 1.1. An internal governance review by the Councils' Monitoring Officer has identified opportunities for amending and modernising both Councils' Constitutions to bring them in line with best practice and to ensure they are lawful, fit for purpose and up to date.
- 1.2. There is also an identified desire to ensure that the Constitutions better reflect the needs of our Members and communities, enables improved decision making and enhances the democratic process generally.
- 1.3. This report requests that the Joint Governance Committee approves the creation of a Working Group to consult on the proposed changes to the two Constitutions, enabling the Monitoring Officer to create final draft Constitutions for approval by the Joint Governance Committee on 27 September 2022, with a recommendation that Adur and Worthing Full Councils each ratify the amendments at their meetings in October 2022.

## **2. Recommendations**

That the Joint Governance Committee

- 2.1. Notes the content of this report and approves the creation of a Working Group on the terms proposed at paragraph 4 below.
- 2.2. Accepts a further report on changes proposed by the Working Group at its meeting on 27 September 2022.
- 2.3. Puts forward recommendations to the Full Councils at their meetings in October 2022 (via Joint Governance Committee and Joint Strategic Committee) for approval.

## **3. Background**

- 3.1 A council's Constitution should primarily be a locally driven document that reflects the character and culture of the organisation. It should facilitate council business, deliver consistent, efficient and effective decision-making and enable good governance. It should not create overly bureaucratic procedures but promote transparency, efficiency and democratic accountability.
- 3.2 The Adur District and Worthing Borough Council Constitutions have grown over years much like a patchwork quilt and are not always internally consistent or easily accessible. They currently comprise around 600 pages each, divided into several disparate articles and sections, which cannot be read together or searched as a whole. The documents are difficult to navigate and the contents page is unwieldy, being neither sufficiently detailed nor interactive. Concerns have been expressed about their legal compliance and completeness.
- 3.3 The change of Administration at Worthing Borough Council provides an ideal time and opportunity for both Adur District Council and Worthing Borough Council to jointly consider and agree how their Constitutions might each be improved in general terms, and more particularly, how decision making beyond the joint services arena could be made closer to their respective communities.

- 3.4 A report is being taken to the Joint Strategic Committee (JSC) on 7 June 2022 to consider improvements to the Councils' democratic processes. The report sets out a number of proposed changes to the Executive and Scrutiny decision-making procedures, which will be taken into account when reviewing the Constitution.
- 3.5 In addition, there may be a need for consequential amendments to the Joint Committees Agreement arising from agreed changes.

#### **4. Context**

- 4.1 This report seeks authority from the Joint Governance Committee to set up a Working Group to consider both Councils' constitutions, against the principle of shared arrangements whilst also considering any additional amendments to support individual Council requirements, and to propose required changes to the Constitutions and any amendments to the Joint Committees Agreement.
- 4.2 It is envisaged that the Working Group will be comprised of:
- Worthing Borough Council Members: 2 Labour, 1 Conservative and 1 Independent;
  - Adur District Council Members: 2 Conservative, 1 Labour and 1 Green; and
  - The Monitoring Officer, Deputy Monitoring Officer and Democratic Services Officer.
- 4.3 The proposed terms of reference for the Working Group are to:
- Comment on the Monitoring Officer's proposed amendments to modernise and update the Constitutions;
  - Consider what further constitutional amendments may be required to improve participation, efficiency, accountability and transparency in decision making, and to bring democracy closer to the community;
  - Consult with Members, Officers, and others as required;
  - To submit recommendations for final draft Constitutions, and any proposed amendments to the Joint Committees Agreement, to the Joint Governance Committee at its meeting on 27 September 2022.
- 4.4 It is acknowledged that revising the Constitutions is a large piece of work to undertake and it is anticipated that the proposed Working Group should aim to meet fortnightly.

## **5. Issues for consideration**

- 5.1 A change of administration in Worthing provides both Adur and Worthing Councils with an ideal opportunity for reviewing its democratic processes to deliver both jointly, and individually, a service that meets the needs of the community.
- 5.2 The proposed Working Group will provide an opportunity for political groups and all Members to be involved in the process to modernise each Council's Constitution.

## **6. Procedure**

- 6.1 Under Article 12, the Joint Governance Committee is responsible for monitoring and reviewing the operation of the Constitutions, and for maintaining an overview in respect of contract procedure rules, financial regulations, codes of conduct and behaviour. The Monitoring Officer is also responsible for monitoring and reviewing the operation of the Constitutions, and for recommending ways in which it can be amended.
- 6.2 Changes to a Constitution will only be made:
  - (a) with the approval of Full Council after consideration of the proposal by the Joint Governance Committee, the Joint Strategic Committee, the Chief Executive and the Monitoring Officer; or
  - (b) by the Monitoring Officer arising from decisions of the Council or the Executive; where legislation requires a change in wording or terminology; or to make minor or consequential amendments.

## **7. Proposals**

- 7.1 Below are the key areas identified for the review of the Constitutions, for consideration and discussion by the Working Group. A series of amendments to the form and content will be proposed to make it more succinct, accessible, easy to navigate and interactive. This will be achieved by joining together all the disparate parts of the current Constitutions into one document, capable of being searched and read as a whole. A number of suggested improvements can then be considered, some required by law and others by good practice, the most significant of which are summarised below:

- The current Constitutions comprise over 600 pages. The revised versions will contain fewer than 400 pages (a reduction in size of one-third).
- The revised versions will be consistently formatted and fully searchable.
- A hyperlinked contents page will allow the reader to go straight to the section they require.
- A strengthened Citizens section (Art.3), with the addition of community rights.
- A reminder of Members' corporate parenting responsibilities.
- Proposal to reduce the Policy Framework to the statutory minimum.
- Proposal to appoint an opposition member to chair overview and scrutiny.
- Ownership of the overview and scrutiny work programme given to the committee.
- Strengthened emphasis on policy development role of overview and scrutiny.
- Strengthened emphasis on the ability of Members and the public to request items be placed on the agenda of overview and scrutiny committees.
- More relaxed rules on Call-In.
- Reminder of the ability of overview and scrutiny to refer matters to Full Council.
- Inclusion of the ability to delegate functions and responsibilities to Ward Members.
- Reminder of restrictions on whipping.
- Insertion of section to deal with the council's external partnerships and joint arrangements.
- Extended principles of decision-making.
- Provision included for electronic sealing of documents.
- Expanded Council functions list.
- Revised Policy Framework.
- Refreshed principles of decision-making.
- Inclusion of Executive Members' names.
- Expanded list of non-executive committee functions (in accordance with legislation).
- A reduction in length of time for Council meetings.
- An extension of time for public questions.
- Changes to Motions on Notice.
- A reduction in the length of Member speeches.
- New public interest test to be used when deciding whether matters are exempt from publication.

- Updated list of Proper Officers.
- Revised protocol for Member/Officer working arrangements.
- New Dispensations Protocol.
- New provision for recording and publishing officer decisions.

## **8. Engagement and Communication**

- 8.1 The Working Group will determine the appropriate internal and external consultation process.

## **9. Financial Implications**

- 9.1 None other than officer time spent in assisting Members with the review.
- 9.2 However, depending on the outcome of the review, there may be financial implications arising from, say increasing the number of meetings to be supported.

## **10. Legal Implications**

- 10.1 Every local authority is under a duty to prepare and keep up to date its Constitution under s.9P of the Local Government Act 2000. The Constitution must contain:

- the standing orders/procedure rules
- the Members' code of conduct
- such information as the Secretary of State may direct
- such other information (if any) as the authority considers appropriate
- Constitutions must be available for inspection at all reasonable hours by members of the public and supplied to anyone who asks for a copy on payment of a reasonable fee.

- 10.2 Under s.135 Local Government Act 1972, every local authority must make standing orders with respect to the making of contracts for the supply of goods or materials or for the execution of works.

- 10.3 Under sections 8 and 20 of the Local Government and Housing Act 1989, the Secretary of State may by regulations require local authorities to incorporate in standing orders relating to their staff, meetings and proceedings. Accordingly, the Local Authorities (Standing Orders)

Regulations 1993, the Local Authorities (Standing Orders) (England) Regulations 2001 and the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 and 2015, all require certain standing orders relating to staff and council proceedings to be included in the Constitution. Other statutory guidance, such as that relating to Channel Panels, also requires references to be included in the Constitution.

- 10.4 Furthermore, the Secretary of State issued guidance in the form of the Local Government Act 2000 (Constitutions)(England) Direction in December 2000, which required over 80 minimum requirements to be included within Constitutions.
- 10.5 In considering the matters identified in the Terms of Reference above, the Working Group is to have regard to the Monitoring Officer's advice so as to ensure the changes to be proposed to the Joint Governance Committee in September are constitutionally and legislatively compliant.

### **Background Papers**

- The Councils' Constitutions:  
<https://www.adur-worthing.gov.uk/about-the-councils/constitutions/>
- Report to Joint Strategic Committee, 7 June 2022.

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## **Sustainability & Risk Assessment**

### **1. Economic**

1.1 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. Risk and 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.