



ADUR & WORTHING  
COUNCILS

Joint Overview and Scrutiny Committee  
15 September 2022

Key Decision [No]

Ward(s) Affected:N/A

**Overview and Scrutiny and Joint Overview and Scrutiny in the revised  
Constitutions**

**Report by the Director for Digital, Sustainability and Resources**

**Executive Summary**

**1. Purpose**

- 1.1 This report sets out the changes to the Overview and Scrutiny, Joint Overview and Scrutiny and relevant Procedure Rules sections of the Constitutions, which have been proposed by the Joint Governance Committee Constitution Review Working Group.

**2. Recommendations**

- 2.1 That JOSOC considers the proposed changes to the Overview and Scrutiny, Joint Overview and Scrutiny and Procedure Rules sections of the Constitutions as attached in the appendix to this report and refers any comments on them to the Joint Governance Committee at its meeting on 27 September 2022, when it considers all proposed changes to the Constitutions.

### **3. Context**

- 3.1 An internal governance review by the Councils' Monitoring Officer 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.
- 3.2 The Councils created a Working Group of the Joint Governance Committee which has been meeting during the Summer and consulted on the proposed changes to the Constitutions. The outcomes from this consultation are expected to be reported to the Joint Governance Committee (JGC) in September and then to the Council meetings in October.

### **4. Issues for consideration**

- 4.1 As part of its Work Programme, JOSOC requested that it review the proposed revisions to the Procedure Rules and the sections of the Constitutions that relate to Overview and Scrutiny and Joint Overview and Scrutiny before these are reported to JGC.
- 4.2 The revised sections of the Constitutions and the revised Overview and Scrutiny Procedure Rules are now set out as an Appendix to this report for JOSOC to review and make any comments to JGC for consideration at its meeting on 27 September.

### **5. Engagement and Communication**

- 5.1 JOSOC Chairs and Vice-Chairs and relevant Officers have been consulted on this report.

### **6. Financial Implications**

- 6.1 Depending on the outcome of the review, there may be financial implications arising from the proposed changes to the operation of Overview and Scrutiny e.g. increasing the number of meetings to be supported if more Scrutiny is undertaken.

### **7. Legal Implications**

- 7.1 Every local authority is under a duty to prepare and keep up to date its Constitution under Section 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.

7.2 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.

7.3 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.

7.4 The Councils 'must have regard' to the revised Statutory Guidance 'Overview and Scrutiny Guidance for Councils and Combined Authorities - May 2019 when exercising their Scrutiny functions. 'Must have regard' in this context does not mean that the sections of the Guidance have to be followed in every detail but that they should be followed unless there is a good reason not in a particular case.

7.5 The Working Group that has been reviewing the Constitution has had 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**

Report to the Joint Governance Committee 31 May 2022 which agreed to set up the Working Group  
 JOSOC Work Programme 2022/23

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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. 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.