

NAME OF COMMITTEE	Audit Committee
DATE	28 April 2015
REPORT TITLE	Annual Review of the Council's Constitution
REPORT OF	Monitoring Officer
WARDS AFFECTED	All

Summary of report:

To consider a report to ensure that the Constitution is amended to reflect the changes that have either occurred in the Council over the previous year, or to implement any necessary changes to ensure that it is up to date, lawful and reflects the Council's current practices.

Financial implications:

There are no financial implications arising directly from this report.

RECOMMENDATION:

That the Committee **RECOMMENDS** to Council that:

1. The amendments to the West Devon Borough Council Constitution 2015 (as summarised in paragraph 2.2 of the report and fully outlined on the website) be approved;
2. Delegated approval be given to the Monitoring Officer to make any further amendments to the Hub Committee and Overview & Scrutiny Committees functions and areas of responsibility in order to reflect the emerging T18 structure; and,
3. Delegated approval be given to the Environmental Health Community of Practice Lead/Divisional Environmental Health Officers/Customer First Group Manager those matters under the Anti-social Behaviour, Crime and Policing Act 2014 as set out in paragraph 2.4 of this report.

Officer contacts:

Catherine Bowen, Monitoring Officer (cbowen@westdevon.gov.uk 01822 813600).

1. BACKGROUND

- 1.1 It is a constitutional requirement whereby each year, the Council (at its annual meeting) must formally adopt its Constitution for the forthcoming municipal year.
- 1.2 Changes to the Constitution are made throughout the year by the Council and through its consideration of recommendations arising from Committee minutes. Typical examples of such changes include:
 - the interim delegation scheme to ensure lawful decisions are made during the transition period of T18
 - the re-designation of officer roles in light of the T18 changes
 - Member attendance statistics
- 1.3 Such changes are effective from the date of approval and are made by the Monitoring Officer. In addition, the Monitoring Officer also has delegated authority to make minor (or legal) amendments to the Constitution during the course of the year. These are highlighted for information purposes in the Constitution Review document (see below).
- 1.4 The Council Constitution is fully updated every spring for consideration by the Audit Committee to ensure that it is ready for adoption by Council at its Annual Meeting.

2. THE PROPOSED AMENDMENTS

- 2.1 As part of the annual review, further amendments have been made and highlighted in yellow. Due to the large size of the Constitution, it has not been circulated with the agenda, but is available on request by contacting Member Services (member.services@westdevon.gov.uk).
- 2.2 The main changes proposed to the Constitution are summarised as below:
 - 2.2.1 **Hub Committee:** following Council's approval for the Resources and Community Services Committees to be replaced by a single Hub Committee, the terms of reference for the new Hub Committee are set out in Part 3 of the Constitution and also merge the responsibilities of the two former committees.

Clarification is still ongoing about the new ways in which the Council will deliver its services and delegated authority is requested for the Monitoring Officer to further amend the details of the responsibilities (specific service area etc) for the Hub Committee to ensure a fit for purpose remit is available for the new Council.

- 2.2.2 **Overview & Scrutiny Panels:** changes have been made to Part 3 of the Constitution (terms of reference for Committees) and Part 4 which deals with Overview & Scrutiny Procedure Rules, in order to reflect the Council's agreement to replace the single Committee with two Overview & Scrutiny Committees. Further consequential amendments have been made throughout the Constitution to reflect the change to the two Committees. Detailed terms of reference will be finalised at the first meetings of the Committees.

2.2.3 **Sealing:** in view of the Agile working arrangements under T18 it is recommended that the Council's sealing in undertaken by the Monitoring Officer (or a duly authorised member of her team) without the requirement for the Mayor (or an another Member to also authorise) in order that urgent matters can be attended to from remote locations.

2.2.4 **Part 7: Management Structure** – this will be revised and attached to the Constitution following the finalisation of the T18 Structure.

2.3 **The Contract Procedure Rules** were reviewed in 2014 and the Financial Procedure Rules were reviewed in 2013 but it is recommended that a further review of both of these sets of rules this be conducted during 2015/16 to ensure that they remain relevant following the finalisation of the new T18 structure. A report will be accordingly presented to a future Committee meeting.

2.4 **Authority is also requested to delegate** the new powers under the Anti-social Behaviour, Crime and Policing Act 2014 to the Community of Practice Environmental Health Lead / Divisional Environmental Health Officers/Customer First Group Manager (depending on appointments) to:

- (i) Be the Proper Officers for this Act
- (ii) Make Pubic Space Protection Orders
- (iii) Issuing Fixed Penalty Notices with a penalty of £100
- (iv) Serving Community Protection Notices
- (v) Making Closure Orders
- (vi) To decide the local threshold for the Community Trigger

3. LEGAL IMPLICATIONS

3.1 The Local Government Act 2000 requires the Council to have (and to maintain) a Constitution.

3.2 The Monitoring Officer must review the Constitution annually and make recommendations to the Audit Committee, who in turn must recommend its adoption to full Council. Only the Council can approve and adopt the Council's Constitution.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications arising directly from this report.

5. RISK MANAGEMENT

5.1 The risk management implications are shown at the end of this report in the Strategic Risk Template.

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	All
Considerations of equality and human rights:	None directly arising from this report

Biodiversity considerations:	None directly arising from this report
Sustainability considerations:	None directly arising from this report
Crime and disorder implications:	None directly arising from this report
Background papers:	Constitution Review 2015

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Fit for purpose Constitution	Failure to review the Constitution and approve the changes may lead to unlawful decisions being taken.	2	2	4	↔	The Council undertakes an annual review of the Constitution to ensure that it is up to date and reflects current practice and law.	Monitoring Officer

Direction of travel symbols ↓ ↑ ↔