

Report to: **Audit Committee**  
Date: **31 January 2019**  
Title: **Review of the Council's Constitution: Rules of Procedure and Scheme of Members' Allowances**  
Portfolio Area: **Support Services**  
Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **N/A**

Date next steps can be taken: **The Committee recommendations will be presented to the Council meeting on 21 February 2019**

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## **RECOMMENDATION**

**That the Audit Committee RECOMMEND to Council that the amendments to Part 4 (Rules of Procedure) and Part 6 (Scheme of Members' Allowances) of the South Hams District Council Constitution (as summarised in paragraph 2.5 of the report and fully outlined at Appendix A) be approved and formally adopted.**

### **1. Executive summary**

1.1 The Council is required to formally adopt its Constitution.

1.2 The Audit Committee is responsible for '*maintaining an overview of the Council's Constitution*' and for making any necessary recommendations to the Council.

1.3 This report seeks to ensure that Parts 4: 'Rules of Procedure' and 6: 'Scheme of Members Allowances' of the Constitution are 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 and priorities.

## **2. Background**

2.1 In order that the Audit Committee can make informed recommendations to the Council on the adoption of the Constitution, the Committee is required to undertake regular reviews;

2.2 Changes to the Constitution are made throughout the year by the Council and through its consideration of recommendations arising from Committee minutes and are effective from the date of approval (unless otherwise agreed by Council). Examples over the past year include:

- Updates to the Scheme of Delegation, including the approved decision making functions for 'Development on Council Owned Land' and 'Commercial Property Acquisitions in the South Hams';
- Revisions to the Development Management Committee Public Participation Scheme;
- Adoption of the Discretionary Powers contained within the Animal Welfare Act 2006 and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 (NB. including a new Sub-Committee structure to consider objections to conditions on an Animal Licence);
- The establishment of an Affordable Housing Delivery Working Group; and
- Approval of a revised Planning Scheme of Delegation.

2.3 In addition, the Monitoring Officer has delegated authority to make minor (or legal) amendments to the Constitution during the course of the year. The changes that have been made under these powers this year mainly relate to minor amendments to officer job titles and format and style;

2.4 Members will recall that the first part of the Review (Parts 1, 2, 3 and 5) was approved by the Council at its annual meeting on 17 May 2018 (Minute 17/18 refers) and this report presents the second part of the Review that focuses on Part 4 (Rules of Procedure) and Part 6 (Scheme of Members' Allowances). The intention is for the Committee to review these Parts before then making its recommendations to the Council.

2.5 Whilst the proposed changes are not extensive (and are fully outlined at Appendix A), the key amendments to the Rules of Procedure are summarised as follows:-

- That, for meetings of the Executive, the latest version of the Executive Forward Plan be included as a standing agenda item;
- A proposal to increase the quorum of the Licensing Committee from six to seven Members;
- The addition of specific Procedure Rules to underpin the Scrutiny Code of Conduct Hearing Panel; and

- Changes to the Access to Information Procedure Rules to reflect the fact that the Council membership now operates a 'paperless agenda' way of working.

2.6 Since there are no proposed revisions to the Council Procedure Rules at this time, these have not been appended to this report;

2.7 In respect of Part 6: 'Scheme of Members Allowances', the Committee will be aware that any significant changes to the Scheme are required to be considered in the first instance by the Independent Remuneration Panel. Following the recent Internal Audit review into the Scheme, the wording related to the time period for claims and payments was found to be somewhat ambiguous. As a result a minor amendment to clarify this point has been made and is illustrated at Appendix B.

2.8 During this review, officers have once again consulted with the Chairman of the Overview and Scrutiny Panel and are again very grateful for his invaluable input and feedback in producing this revised draft.

### 3. Outcomes/outputs

3.1 The Council is required to have an up to date Constitution which reflects the law, its working practices together with best practice to ensure that it delivers efficient services and lawful decisions. The Constitution is a living document and changes are made throughout the year when necessary.

### 4. Options available and consideration of risk

4.1 The options are limited as the Council has a statutory duty to adopt its Constitution annually and to review that document to ensure that it is fit for purpose and reflects both statutory requirements and the Council's working practices;

4.2 If the Council does not review the Constitution there is a risk that the Council may make unlawful decisions with a consequent risk of challenge;

4.3 Senior Officers have been consulted on the Constitution and any necessary amendments incorporated.

### 5. Proposed Way Forward

5.1 The Audit Committee is asked to review these parts of the Constitution and make any necessary recommendations to Council in order that the Constitution can be adopted in time for the May 2019 local elections.

### 6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Local Government Act 2000 requires the Council

		to have (and to maintain) a Constitution. 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.
Financial	N	There are no financial implications to this report
Risk	Y	There is a risk arising from a failure to review the Constitution and approve the necessary changes because it may lead to unlawful decisions being taken by the Council.  By undertaking an annual review of the Constitution the Council mitigates this risk by ensuring that the Constitution is up to date and reflects current practice and law.
Comprehensive Impact Assessment Implications		
Equality and Diversity		None arising from this report
Safeguarding		n/a
Community Safety, Crime and Disorder		n/a
Health, Safety and Wellbeing		n/a
Other implications		n/a

### **Supporting Information**

#### **Appendices:**

- A: Revised Draft Procedure Rules; and
- B: Revised Scheme of Members' Allowances.

#### **Background Documents:**

Constitution Reviews 2017 and 2018 (Part 1).