

Report to: **Council**

Date: **27 June 2023**

Title: **Council Constitution**

Portfolio Area: **Leader of the Council**

Wards Affected: **All**

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

Date next steps can be taken: **Immediately**

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RECOMMENDATIONS:

That the Council:

- (1) notes the Constitution as set out at <https://westdevon.gov.uk/constitution>; and**
- (2) notes the changes made by the Monitoring Officer since the adoption of the Constitution and as set out in the Record of Changes attached as Appendix A to the report.**

1. Executive summary

- 1.1 The Council operates the committee system as its governance arrangements.
- 1.2 The Council has a legal duty to publish an up-to-date Constitution reflecting its governance arrangements and which contains its standing orders, its councillor code of conduct, such information as the Secretary of State directs or that the Council considers appropriate.
- 1.3 Following a review, the Council adopted a new style constitution last year. The Monitoring Officer has kept the Constitution under review and made changes under delegated powers. Those changes are recorded in the Record of Changes set out in Appendix A. Council is asked to note these.

2. Background

- 2.1 Under Section 9B of the Local Government Act 2000 there are two permitted forms of governance arrangements for local authorities in England; executive arrangements or a committee system. Decisions are therefore made in accordance with sections 101 and 102 of the Local Government Act 1972. This means that the Council carries out its functions through committees, sub—committees and officers as well as through other local authorities. Decisions may be “delegated”, in which case the body or person to who the decision has been delegated becomes the decision-maker, or “referred” in which case the committee, sub-committee or officer merely considers the matter and reports to the body referring the decision which may then reaches a decision in the light of the information and any recommendation in the report.
- 2.2 Although overview and scrutiny is a feature of executive arrangements, it is optional for those authorities with the committee system. The Council has chosen to have an overview and scrutiny committee. Consequently, the Local Authorities (Committee System) (England) Regulations 2012 apply and set out specific requirements that must be reflected in the Council’s overview and scrutiny arrangements.
- 2.3 Section 9P of the Local Government Act 2000 requires the Council to prepare and keep up to date a document, to be known as the Constitution, which contains:
- (a) a copy of the authority's standing orders for the time being;
 - (b) a copy of the authority's code of conduct;
 - (c) such information as the Secretary of State may direct; and
 - (d) such other information (if any) as the authority considers appropriate
- 2.4 The Council’s constitution is published on the Council’s website at <https://westdevon.gov.uk/constitution>. The Council completed a review of the Constitution and adopted the current Constitution in September 2022 (Min CM.42/22 refers). The decision to adopt the Constitution was the culmination of several decisions by the full Council by which it agreed changes to its decision-making framework to secure greater transparency, accountability, clarity of roles, and efficiency of the democratic process (Min. HC.84/20 refers).
- 2.5 The Monitoring Officer is responsible for keeping the Constitution under review and has delegated powers to “make changes to the Constitution to give effect to decisions of the Council, to secure compliance with the law and to correct or improve layout, spelling

or grammar including, but not exclusively changes to ensure individual names, positions and job titles are updated to reflect changes in the composition of the Executive, Committees, and Officers.” Appendix A to this report records the changes made or to be made under those powers.

- 2.6 No changes of substance going beyond the Monitoring Officer’s delegated powers are proposed currently. However, if members consider that the Constitution should be reviewed and more substantive changes made, then it is suggested that a further report is prepared for the Audit and Governance Committee, which historically has been responsible for maintaining an overview of the Constitution and for making any necessary recommendations to the Council.

3. Outcomes/outputs

- 3.1 Keeping Constitution under review will ensure that the Council can meet its statutory obligations and make decisions transparently and lawfully.

4. Implications

| Implications | Relevant to proposals Y/N | Details and proposed measures to address |
|--|---------------------------|---|
| Legal/Governance | Y | These are set out in the report at paragraphs 2.1 – 2.3. |
| Financial implications to include reference to value for money | N | |
| Risk | N | |
| Supporting Corporate Strategy | Y | Having an up-to-date Constitution supports A Plan for West Devon by setting out transparently how the Council operates, how decisions are made and the procedures which are followed. |
| Consultation & Engagement Strategy | N | |
| Climate Change - Carbon / Biodiversity Impact | N | |
| Comprehensive Impact Assessment Implications | | |
| Equality and Diversity | N | |
| Safeguarding | N | |

| | | |
|--------------------------------------|---|--|
| Community Safety, Crime and Disorder | N | |
| Health, Safety and Wellbeing | N | |
| Other implications | N | |

Supporting Information

Appendices:

Appendix A – Record of Changes.

Background Papers:

There are no background papers.