

Report to: **Audit Committee**
Date: **14 March 2017**
Title: **Review of the Council's Constitution**
Portfolio Area: **Resources and Performance (Cllr Edmonds)**
Wards Affected: **All**

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

Date next steps can be taken: **Annual Meeting**
(e.g. referral on of recommendation or implementation of substantive decision)

Author: **Catherine Bowen** Role: **Monitoring Officer**

Contact: Catherine.Bowen@swdevon.gov.uk

RECOMMENDATION

That the Audit Committee:

- 1. Delegates to the Monitoring Officer any further amendments to the Contract Procedure Rules as a result of consultation with the Corporate Procurement Officer**
- 2. RECOMMENDS to Council that the amendments to the West Devon Borough Council Constitution (as summarised in paragraph 2 of the report and fully outlined on the website) be approved and that the revised Constitution is adopted at the Annual Meeting in May 2017**

1. Executive summary

- 1) The Council is legally required to formally adopt its Constitution at the Annual Meeting in May for the forthcoming municipal year.
- 2) The Audit Committee is responsible for an overview of the Constitution and for making any necessary recommendations to the Council and this report seeks 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 and priorities.

2. Background

- 1) In order that the Audit Committee can make informed recommendations to the Council on the adoption of the Constitution at the Annual Meeting, the Committee is requested to review the Council's Constitution.
- 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:
 - Changes to the Planning & Licensing Committee. These include (effective from the Annual Meeting) a change of name to Development Management Committee, and the establishment of a further licensing sub-committee comprising 5 members of main Committee for taxi and other licensing functions (February Council 2017). There has also been a review of the delegation of the licensing functions (December Council 2016).
 - Members' Allowance Review – amendments approved by December 2016 Council
 - Changes to the Delegation Scheme as a result of the reduction in the number of Group Managers and their respective areas of responsibility (February Council 2017).
- 3) In addition, the Monitoring Officer has delegated authority to make minor (or legal) amendments to the Constitution during the course of the year. For clarity, these changes are not shown as proposed amendments to the Constitution. The changes that have been made under these powers mainly relate to officer job titles and evolving areas of responsibility following the T18 implementation.
- 4) As part of the annual review, further amendments have been made and highlighted in yellow to the version of the Constitution marked 'Constitution Review 2017'. However, 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).
- 5) Members will note that most of the amendments made during this review are not significant as there has not been a major review of the Constitution's provisions this year. The changes are largely corrective or for clarification.
- 6) The exception to 5 above is the review of the Contract Procedure Rules which is attached separately to this report as Appendix A (summary of the changes) and Appendix B (proposed changes shown as tracked changes), together with a schedule of the changes made and the reason why. Further work is continuing in aligning the Contract Procedure Rules with South Hams and Teignbridge in order to produce a better working

document for the shared officers. However, and major changes will be brought back to the Audit Committee for consideration.

- 7) It was envisaged that the Financial Procedure Rules would also be reviewed for consideration by this Committee during this financial year. However, due to the work on the Local Authority Company and other pressures, this has not been possible. We anticipate that these Rules will be reviewed during the next financial year.
- 8) However, once change proposed now to the Finance Procedure Rules is the increase in the limit of asset disposals and acquisitions that are delegated to the Assets CoP Lead in consultation with the 151 Officer. These limits are currently £50,000 and it is proposed to increase the delegated authority limit to £300,000, with any acquisitions and disposals above those limits being referred to the Hub Committee for decision.
- 9) The Political Structures Working Group is also currently reviewing the terms of reference for the Hub Committee and considering whether the two current Overview & Scrutiny Committees should be amalgamated into one O&S Committee. Any recommendations made by the Political Structures Working Group will be considered by the Council and incorporated in the Constitution if approved.

3. Outcomes/outputs

- 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

- 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.
- 2) If the Council does not review the Constitution there is risk that the Council may make unlawful decisions with a consequent risk of challenge.
- 3) Senior Officers have been consulted on the Constitution and any necessary amendments incorporated.

5. Proposed Way Forward

- 1) The Audit Committee is asked to review the Constitution and make any necessary recommendations to Council in order that the Constitution can be adopted at the Annual Meeting in May for the forthcoming year.

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	<p>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.</p> <p>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.</p>
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

Background Papers:

Constitution Review 2017

Appendices:

Appendix A: summary of changes to the Contract Procedure Rules

Appendix B: Revised Contract Procedure Rules