

Report to: **Audit Committee**  
Date: **24 March 2016**  
Title: **Review of the Council's Constitution**  
Portfolio Area: **Resources and Performance**  
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)

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**Recommendation:**

**That the Audit Committee RECOMMENDS to Council that the amendments to the South Hams District 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 2016**

**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. Examples over the past year include:
  - Changes to the regulations on dismissal of statutory officers
  - Members' Allowance Review
- 3) Such changes are effective from the date of approval and are made by the Monitoring Officer.
- 4) 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 restructure.
- 5) As part of the annual review, further amendments have been made and highlighted in yellow to the version of the Constitution marked 'Constitution Review 2016'. 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](mailto:member.services@westdevon.gov.uk)).
- 6) 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.
- 7) 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 be conducted during the next year 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.

### **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	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		n/a

Wellbeing		
Other implications		n/a

### **Supporting Information**

**Background Papers:**  
Constitution Review 2016