

## SOUTH HAMS DISTRICT COUNCIL

<b>NAME OF COMMITTEE</b>	<b>Audit Committee</b>
<b>DATE</b>	<b>11 April 2013</b>
<b>REPORT TITLE</b>	<b>Annual Review of the Council's Constitution</b>
<b>REPORT OF</b>	<b>Monitoring Officer and Democratic Services Manager</b>
<b>WARDS AFFECTED</b>	<b>All</b>

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**Summary of report:**

To consider a report which 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.

**Financial implications:**

There are no financial implications arising from this report.

**RECOMMENDATION:**

**That the Audit Committee RECOMMEND to Council that the amendments to the South Hams District Council Constitution 2013 (as summarised in paragraph 2.2 of the report and fully outlined on the website) be approved.**

**Officer contacts:**

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**Lead Member contact:**

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## 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 newly approved Financial Procedure Rules;
  - the revised process for dealing with complaints alleging that Members have breached the Code of Conduct no longer being considered by a Standards Committee; and
  - the decision to remove the need to convene agreed amendment Licensing Sub-Committee meetings.
- 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. For clarity, these changes are made during the course of the year and are not shown as proposed amendments at this time.
- 1.4 The Council Constitution is fully updated every April 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, officers are suggesting some amendments to the Constitution which are shown highlighted in yellow font on the Council's website ([www.southhams.gov.uk](http://www.southhams.gov.uk)). Due to the volume of papers, these have not been circulated with the agenda, but are available on request by contacting Member Services ([member.services@southhams.gov.uk](mailto:member.services@southhams.gov.uk)).
- 2.2 However, the main changes proposed to the Constitution are:
  - 2.2.1 **Part 1: Summary, Explanation and Definitions:** it is proposed to divide this Part and place the Definitions under a separate heading. In addition, it is proposed to delete the Citizens' Rights section contained in this part, since it is repeated in Part 2 – Article 3: Citizens and the Council;
  - 2.2.2 **Part 2 – Article 3: Citizens and the Council:** to reflect the fact that citizens have the ability (if deemed appropriate) to contribute to Task and Finish Groups;
  - 2.2.3 **Part 2 – Article 4: The Full Council:** to update the Policy Framework (e.g. to delete reference to the Equality Strategy, which is no longer required). In addition, to delete any reference to informal meetings, workshops and seminars;

- 2.2.4 **Part 2 – Article 6: Overview and Scrutiny:** since there is duplication in Part 3: Delegation Scheme and Part 4: Overview and Scrutiny Procedure Rules, it is proposed to delete this article;
- 2.2.5 **Part 2 – Article 7: The Executive:** to delete reference to the section entitled: ‘Schedule: Description of Executive Arrangements;’
- 2.2.6 **Part 2 – Article 9: Audit Committee and Article 10: Salcombe Harbour Board:** since there is duplication in Part 3: Delegation Scheme and Part 4: Rules for Other Bodies of the Council, it is proposed to delete these articles;
- 2.2.7 **Part 2 – Article 12: Officers:** since there is duplication in Part 7: Management Structure, it is proposed to delete certain elements of this Article. In addition, it is no longer a requirement for the Monitoring Officer to contribute to the promotion and maintenance of high standards of conduct of town and parish councils in the district;
- 2.2.8 **Part 2 – Article 15: Review and Revision of the Constitution:** for clarity, it is proposed to amend the paragraph in relation to approving changes to the Constitution;
- 2.2.9 **Part 2 – Article 16: Suspension, Interpretation and Publication of the Constitution:** it is proposed to remove the requirement for the Monitoring Officer to ensure that paper copies of the Constitution are made available for inspection at local libraries;
- 2.2.10 **Part 2 – Schedule 1: Description of Executive Arrangements:** the schedule is considered to be unnecessary and it is therefore proposed to be deleted.
- 2.2.11 **Part 3 – Delegation Scheme:** the Scheme is proposed to be amended to ensure that reference is made to a subordinate document that will sit under the Constitution and will detail which officers deal with which particular responsibilities within each service area. The document will also clarify areas which sit firmly within the remit of Committees and which matters are delegated to officers to decide. This piece of work will be completed prior to the meeting of Annual Council in May.
- 2.2.12 **Part 4 – Council Procedure Rules:** an additional procedure rule is proposed entitled: ‘Reference up of Decisions’. This suggestion has been proposed to clarify the ability of the Executive, the Scrutiny Panels and the Committees to make recommendations for the determination of full Council.
- 2.2.13 **Part 4 – Overview and Scrutiny Procedure Rules:** the rule in relation to meetings has been amended to reflect the decision to reduce the number of ordinary meetings each year to four.
- 2.2.14 **Part 5 – Protocol on Councillor / Officer Relations:** some suggestions proposed by the lead Executive Member for Corporate Services have been incorporated.

### 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 to this report

### 5. RISK MANAGEMENT

- 5.1 The risk management implications are:

<b>Opportunities</b>	<b>Benefits</b>
To review the Constitution to ensure that it is up to date and reflects current practice and law.	An annual review ensures an up to date and lawful Constitution.
<b>Issues/Obstacles/Threats</b>	<b>Control measures/mitigation</b>
Failure to review the Constitution and approve changes leading to unlawful decisions.	By reviewing in a timely manner annually.

### 6. OTHER CONSIDERATIONS

<b>Corporate priorities engaged:</b>	All
<b>Considerations of equality and human rights:</b>	None directly arising from this report
<b>Biodiversity considerations:</b>	None directly arising from this report
<b>Sustainability considerations:</b>	None directly arising from this report
<b>Crime and disorder implications:</b>	None directly arising from this report
<b>Background papers:</b>	The suggested amendments to the Constitution