

NAME OF COMMITTEE	Audit Committee
DATE	3 April 2014
REPORT TITLE	Annual Review of the Council's Constitution
REPORT OF	Monitoring Officer and Democratic Services Manager
WARDS AFFECTED	All

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:

1. That the Committee **RECOMMEND** to Council that the amendments to the **South Hams District Council Constitution 2014** (as summarised in paragraph 2.2 of the report and fully outlined on the website) be approved; and
2. That the Committee note the need for a detailed review to be undertaken on the **Contract Procedure Rules** and that these will be presented to a future Committee meeting.

Officer contacts:

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Lead Member contact:

Cllr Mike Saltern, Executive Member for Corporate Services (cldr.saltern@southhams.gov.uk)

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 recently approved interim Executive Director model;
 - the Corporate Performance and Resources Scrutiny Panel taking on responsibility for scrutinising the T18 Programme and providing a quality control function; and
 - the Council decision to discontinue the existing practice of annually reporting the attendance statistics to the Corporate Performance and Resources Scrutiny Panel.
- 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.southams.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@southams.gov.uk).
- 2.2 However, the main changes proposed to the Constitution are summarised as below:
- 2.2.1 **Part 2 – Article 2: Members of the Council:** in line with the Council decision (Minute 45/13(b) to discontinue the practice of annually reporting the attendance statistics to the Corporate Performance and Resources Scrutiny Panel, an amended rule has been suggested for inclusion as follows:

'Members' annual attendance at public meetings of the Council will be published on the website. If a Member fails to comply with the performance target whereby

they should attend at least 65% of all meetings of the bodies to which they have been appointed, then the matter will be considered by the Monitoring Officer, who will consult with the Chairman of Council. Where there are no justified reasons for the performance target being missed, the Monitoring Officer will write to the Member and request that they return a clearly defined proportion of their Basic Allowance.'

- 2.2.2 **Part 2 – Article 7: Regulatory and Other Bodies and Part 2 – Article 9: Joint Arrangements:** to delete reference to the Shared Services Steering Group and replace it with details relating to the T18 Steering Group.
- 2.2.3 **Part 2 – Article 10: Officers:** to update the functions of the Monitoring Officer to enable the postholder to make decisions on Standards Complaints in accordance with the adopted procedures.
- 2.2.4 **Part 3 – Delegation Scheme:** to amend the terms of reference of the full Council to make it a requirement for any changes to the political composition of the Council to be reported to the next meeting for noting purposes. In addition, it is suggested that the Audit Committee be assigned responsibility for the Council's Data Protection Policy.
- 2.2.5 **Part 4 – Council Procedure Rules:** to amend rule 10.3: 'Notices of Motion' to read as follows:
- 'Motions must relate to services which the Council provides, commissions or formally contributes to financially or otherwise through Partnership working.*
- If a submitted motion does not meet these requirements, the Monitoring Officer has delegated authority, in consultation with the Chairman of Council, to determine whether or not a motion is presented to a meeting of the Council.'*
- 2.2.6 **Part 4 – Financial Procedure Rules:** to amend the rules whereby the lower limits in relation to asset acquisitions and disposals be increased from £25,000 to £50,000 before there is a requirement for any Member involvement.
- 2.3 In respect of the Contract Procedure Rules, officers have advised that a detailed review is required. As a consequence, it is recommended that this be conducted in the ensuing months, with a report presented back to a future Committee meeting.
- 2.4 It is recognised that, primarily as a consequence of the Boundary Review and the evolving Transformation Programme, there is likely to be more extensive and wide ranging amendments required to the Constitution during the annual review in spring 2015.
- 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 shown at the end of this report in the Strategic Risk Template:

6. OTHER CONSIDERATIONS

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

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Fit for purpose Constitution	Failure to review the Constitution and approve the changes could lead to unlawful decisions being taken.	2	2	4	↔	The Council undertakes an annual review of the Constitution to ensure that it is up to date and reflects current practice and law.	Democratic Services Manager / Monitoring Officer

Direction of travel symbols ↓ ↑ ↔