

NAME OF COMMITTEE	Audit Committee
DATE	12 March 2015
REPORT TITLE	Annual Review of the Council's Constitution
REPORT OF	Monitoring Officer
WARDS AFFECTED	All

Summary of report:

To consider a report 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 Committee RECOMMENDS to Council that the amendments to the South Hams District Council Constitution 2015 (as summarised in paragraph 2.2 of the report and fully outlined on the website) be approved.

Officer contacts:

Catherine Bowen, Monitoring Officer (cbowen@westdevon.gov.uk 01822 813600).

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 interim delegation scheme to ensure lawful decisions are made during the transition period of T18
 - the re-designation of officer roles in light of the T18 changes
 - changes to the number of Executive members from May 2015
 - changes to the total number councillors following the Boundary Commission Review (effective from May 2015)
- 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 spring for consideration by the Audit Committee 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; 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@southhams.gov.uk).
- 2.2 The main changes proposed to the Constitution are summarised as below:
- 2.2.1 **Overview & Scrutiny Panel:** changes have been made to Part 2 Article 5; Part 3 Delegation Scheme and Part 4 Scrutiny Procedure Rules to reflect Council's agreement (December 2014) to replace the three current Scrutiny Panels with one Overview & Scrutiny Panel. Further consequential amendments have been made throughout the Constitution to reflect the change to the single Panel.
- 1.2.2 There is no continuing need for the **Programming Panel** for the three Scrutiny Panels as all necessary mechanisms covered by the Programming Panel are set out on the Scrutiny Procedure Rules. References to the Programming Panel have therefore been deleted.
- 1.2.3 Part 7: Management Structure – this will be revised and attached to the Constitution following the finalisation of the T18 Structure.
- 2.3 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 2015/16 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. 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 may 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.	Monitoring Officer

Direction of travel symbols ↓ ↑ ↔