

## Amendments to the Constitution

### Report by the Solicitor to the Councils and Monitoring Officer

#### 1.0 Summary

1.1 This report seeks to update members of the Joint Governance Committee with recent amendments made to the Councils' Constitutions by the Monitoring Officer.

#### 2.0 Background

2.1 The Monitoring Officer has a duty to maintain an up-to-date version of the Constitution and to ensure that it is publically available. The Monitoring Officer has the authority, as set out in Article 11 of the Constitution, to "make minor and consequential amendments to the Constitution at any time".

#### 3.0 Proposals

##### 3.1 Part 1: Summary and Explanation

Minor amendments have been made to part 1 of the constitution to clarify which officer is responsible for updating which part of the constitution, whilst overall responsibility for maintaining an up to date constitution remains with the Monitoring Officer.

A further amendment provides that, whilst the Constitutions are available on the Councils' internet, we will also provide a hard copy upon request but will make appropriate charges for photocopying and postage.

##### 3.2 Part 2: Articles of the Constitution

Various minor amendments have been made to the articles. These can be summarised as follows:

- to provide that on acceptance of office Members are obliged to comply with the constitution including the code of conduct.
- to provide that on acceptance of a position of employment with the Councils Officers are also obliged to comply with the Councils' constitutions in respect of provisions relating to Officers.

- to clarify that some appointments to outside bodies are made by full Council and others by the Leader, where they relate to Executive functions.
- to reflect changes, imposed by legislation, and authorised by the Councils in 2015, to the procedures for dismissing the Chief Finance Officer and Monitoring Officer, which must now be approved by full Council.
- functions of full Council have been amended to include approval of the ordinary meetings for the forthcoming year
- reference to Governance Committee has been amended to Joint Governance Committee

### 3.3 Part 3: Terms of Reference

Amendments have been made to the terms of reference of Council committees to clarify the quorum for the Planning Committees, the Licensing and Licensing Sub Committees, and the Overview and Scrutiny Committees.

A further amendment has been made to the terms of reference of the Joint Governance Committee for completeness, to include the role of receiving reports from the Joint Independent Remuneration Panel and making recommendations to Council.

### 3.4 Part 4: Scheme of Delegations

Amendments have been made to the Councils Joint Scheme of Delegations to reflect the fact that the Councils no longer have a post of Head of Organisational Development, and that the Councils' Estates team now reports into the Head of Place and Investment rather than the Head of Economic Growth.

### 3.5 Part 4: Access to Information Procedure Rules

A minor amendment has been made to the Access to Information Procedure Rules at paragraph 15, relating to Key and Exempt Decisions which are urgent. Provision exists for special urgency procedures where it is not practicable to give 28 days notice. The procedure requires the consent of the Chairmen of the Overview and Scrutiny Committee and an amendment has been made to include provision for consent to be given by the Vice Chairmen of the Overview and Scrutiny Committee, if the Chairmen are absent.

### 3.6 Part 4: Council Procedure Rules

A minor amendment has been made to the Index to the Council Procedure Rules to refer to Questions by the Public rather than Questions and Statements by the Public, to reflect the fact that the right for the public to make statements was withdrawn last year.

A further amendment has been made to Council Procedure Rules 32.2 dealing with Member Conduct. The rule provided for the ability of the Mayor or Chairman at a meeting of full Council to stand requiring all Members to be silent and sit down. This provision has been extended to the Chairman of Committee meetings.

### 3.7 Part 5: Protocol on Officer Decision-Making

A minor amendment has been made to this document to clarify that when Officers make key decisions under their delegated authority, they should do so, after considering a written report, and they are also required to comply with the principles of decision making as set out in Article 12 of the constitution.

### 3.8 Part 9: Joint Committee Agreement

Various changes to the Joint Committee Agreement were approved by both full Councils in December 2012 but were never implemented. The Monitoring Officer has now made the relevant consequential amendments and signed and sealed a revised Joint Committee Agreement on behalf of both Councils.

## 4.0 Legal

4.1 Article 11, paragraph 11.03, of the Councils' Constitutions sets out the Functions of the Monitoring Officer and states "The Monitoring Officer has the delegated authority to make minor and consequential amendments to the Constitution at any time".

## 5.0 Financial implications

5.1 There are no financial implications arising from this report.

## 6.0 Recommendation

6.1 Members of the Joint Governance Committee are asked to note the contents of this report.

## **Local Government Act 1972**

### **Background Papers:**

Adur District Council Constitution  
Worthing Borough Council Constitution

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## **Schedule of Other Matters**

[To be completed on all reports. If no issues are identified under a heading then it should read "Matter considered and no issues identified."]

### **1.0 Council Priority**

1.1 Good governance and an up to date constitution support the Councils priorities relating to partnership working.

### **2.0 Specific Action Plans**

2.1 Matter considered and no issues identified.

### **3.0 Sustainability Issues**

3.1 Matter considered and no issues identified.

### **4.0 Equality Issues**

4.1 Matter considered and no issues identified.

### **5.0 Community Safety Issues (Section 17)**

5.1 Matter considered and no issues identified.

### **6.0 Human Rights Issues**

6.1 Matter considered and no issues identified.

### **7.0 Reputation**

7.1 Good governance arrangements help to protect the reputation of the Councils.

### **8.0 Consultations**

8.1 Matter considered and no issues identified.

### **9.0 Risk Assessment**

9.1 The risk of not having an up to date constitution is that procedures and practices may not be transparent, fair, and consistent and may increase the risk of legal challenge.

### **10.0 Health & Safety Issues**

10.1 Matter considered and no issues identified.

### **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified.

## **12.0 Partnership Working**

- 12.1 Constitutional arrangements enable and support the governance of partnership working.