



ADUR & WORTHING
COUNCILS

Joint Governance Committee
31 July 2018
Agenda Item 13

Key Decision: No

Ward(s) Affected:

Amendments to the Constitution

Report by the Monitoring Officer

Executive Summary

1. Purpose

This report seeks to update Members of the Joint Governance Committee with recent amendments made to each Council's Constitution by the Monitoring Officer, and asks Members to note those amendments.

2. Recommendations

The Joint Governance Committee is asked to note the Monitoring Officer's use of her delegated powers to make minor and consequential amendments to the Constitution as set out within the report

3. Context

- 3.1 The Monitoring Officer has a duty to maintain an up-to-date version of the Constitution and to ensure that it is publicly available. The Monitoring Officer has the authority, as set out in Article 11 and at paragraph 3.9.24 of the Officer Scheme of Delegations in the Constitution, to "make minor and consequential amendments to the Constitution at any time".

3.2 The Joint Governance Committee within its terms of reference has the responsibility to monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect.

3.3 The purpose of the Constitution is to:

- enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens and encourage all sections of the Borough and District's communities to be involved in the Council's decision-making processes;
- help Elected Members represent their constituents more effectively;
- create a powerful and effective means of holding decision-makers to public account;
- ensure that no one will review or scrutinise a decision in which they were directly involved;
- ensure that those responsible for decision-making are clearly identified to local people and that they explain the reasons for their decisions;
- provide a means of improving the delivery of services to the community;
- balance speedy and reasoned decision-making with adequate checks and balances;
- place high standards of conduct and probity at the centre of decision-making.

4. Issues for consideration

4.1 Licensing Procedure Rules Adur District Council

In April 2017 Adur District Council resolved to introduce Licensing Procedure Rules and gave delegation to the Monitoring Officer to draft and implement them and incorporate the new Rules as part of the Adur District Council Constitution.

Such Procedure Rules, which accord with the comments and views of the Licensing Committee, were implemented and became effective on 1st April

2018. The Procedure Rules are not binding in law and may be modified for a particular case by the Chairman, provided the principles of natural justice are complied with, but they are useful in communicating procedures to applicants and setting out a clear, consistent and fair procedure for determining licensing applications.

The Rules set out the procedure for giving notice of a hearing, the rights of attendance and representation, the procedure for public attendance, the order of consideration of evidence at a hearing, the role of Officers at a hearing, timescales for determination, procedures for non-attendance and adjournments, and the right of appeal against a decision.

4.2 Protocol for Public / Press Recording of Public Council Meetings Adur District Council and Worthing Borough Council

The Monitoring Officer has made minor amendments to the Protocol for the Public or Press Recording of Public Meetings, and these were incorporated into each Council's Constitution on 9th April 2018.

Previously the Protocol provided that members of the public in the public gallery had to expressly advise the Chairman of the meeting if they did not wish to be recorded. The Protocol has been amended to provide that members of the public in the public gallery should not be recorded unless they have expressly given their consent to be so recorded. The same applies to those asking questions or presenting petitions.

It remains the fact that no one under the age of 18 should be recorded.

Further, the Protocol has been amended to make it clear that any person recording a public meeting must take steps to ensure their compliance with their statutory obligations in respect of the use, recording and retention of public data.

In the previous version of the Protocol there was a provision discouraging Elected Members to engage in the use of social media during a public meeting in which they are sitting. This has been deleted in accordance with a decision of each Council in February 2016 which was not previously implemented.

4.3 Council Procedure Rules Adur District Council and Worthing Borough Council

The Monitoring Officer has made consequential changes to the Council Procedure Rules in the light of the new General Data Protection Regulations

and the Data Protection Act 2018. Revised Council Procedure Rules for each Council were introduced to the Constitutions with effect from 1st May 2018.

Further changes were made on 1st June 2018 to amend Council Procedure Rule 14 'Motions on Notice at Full Council' to give effect to the change in procedures relating to Motions which were considered by this Committee in March 2018 and approved by each Council in April 2018.

Further, an additional Council Procedure Rule 42 has been introduced relating to the appointment or election of the Chairperson or Mayor and their deputies. Previously the appointment and removal of the Mayor of Worthing Borough Council and the Chairman of Adur District Council was dealt with by way of convention and established practices, which were not documented. It was felt there was merit in these practices being incorporated into Council Procedure Rules for clarity and completeness.

An additional change has been made to the Council Procedure Rules to clarify that there is no opportunity at Annual Council Meeting for either public or Member questions to be asked. This has always been the case by convention and these items never appear on the agenda for meetings of Annual Council but have now been included in the Council Procedure Rules for clarity.

4.4 Terms of Reference Worthing Borough Council

The Monitoring Officer has made consequential amendments to the Terms of Reference for Executive Members at Worthing Borough Council, effective from 1st June 2018, to reflect the changes made by the Leader to Executive Member portfolios.

In particular, the Executive Member for Digital and Resources is now known as the Executive Member for Resources and the Executive Member for the Environment is now known as the Executive Member for Digital and Environmental Services. The A-Z of Services has been updated to reflect the changes made to services within each Executive Member's portfolio.

4.5 Articles Adur District Council and Worthing Borough Council

The Monitoring Officer has amended Article 12 of each Council's Constitution in respect of the definition of Key Decisions, to correct an error and ensure the definition accords with the statutory provisions of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000.

This minor amendment is effective from 9th July 2018.

4.6 Code of Conduct for Council Officers Adur District Council and Worthing Borough Council

The Monitoring Officer has amended the Code of Conduct for Council Officers, with effect from 9th July 2018 to remove the reference to the Councils' Dignity at Work Policy which has now been incorporated into the Grievance Policy.

5. Engagement and Communication

5.1 Consultation and engagement took place with Adur District Council Licensing Committee in respect of the new Licensing Procedure Rules.

In exercising delegated powers, the Monitoring Officer has consulted and engaged throughout with the Democratic Services Manager and her team.

6. Financial Implications

6.1 There are no financial implications arising from this report.

7. Legal Implications

7.1 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". This provision is confirmed at paragraph 3.9.24 of the Officer Scheme of Delegations.

Background Papers

Adur District Council Constitution

Worthing Borough Council Constitution

General Data Protection Regulations and Data Protection Act 2018

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Sustainability & Risk Assessment

1. Economic

Matter considered and no issues identified.

2. Social

2.1 Social Value

Good governance arrangements and up-to-date Constitutions support the Councils' priorities relating to partnership working. Good governance arrangements help to protect the reputations of the Councils and provide appropriate access by our communities to the democratic process.

2.2 Equality Issues

The Councils' Constitutions comply with their statutory obligations in respect of equality issues.

2.3 Community Safety Issues (Section 17)

Matter considered and no issues identified.

2.4 Human Rights Issues

The Councils' Constitutions comply with their statutory obligations in respect of human rights issues.

3. Environmental

Matter considered and no issues identified.

4. Governance

Clear and strong governance arrangements ensure that the Councils meet their statutory obligations, help to protect reputations of the Councils, aim to provide access to the democratic process by the public and our communities, and support the Councils' priorities relating to partnership working.