



WEST OXFORDSHIRE
DISTRICT COUNCIL

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Name and Date of Committee	COUNCIL – 25 SEPTEMBER 2024
Subject	RECOMMENDATIONS FROM THE CONSTITUTION WORKING GROUP
Wards Affected	None
Accountable Member	Councillor Alaric Smith – Chair of the Constitution Working Group Email: alaric.smith@westoxon.gov.uk
Accountable Officer	Andrew Brown – Business Manager, Democratic Services Email: andrew.brown@publicagroup.uk
Report Author	Max Thompson – Senior Democratic Services Officer Email: max.thompson@westoxon.gov.uk
Purpose	To present Council with recommendations from arising from a meeting of the Constitution Working Group, held on Friday 19 July 2024.
Annexes	Annex A – LLG Members Planning Code of Good Practice Annex B – Protocol for Recording at Public Meetings
Recommendations	<p>That Council resolves to:</p> <ol style="list-style-type: none">1. Adopt the Lawyers in Local Government (LLG)'s Members Planning Code of Good Practice, as an addition to Part 6 of the Council's Constitution, following appropriate revision by Officers;2. Agree to extend the time period for Councillor Call-In from 21 days to 28 days (from the date of notification), to align with the time period for representations;3. Agree to make the size of the Lowlands and Uplands Area Sub-Committees more flexible in Part 3C: Committee Functions:<ul style="list-style-type: none">- The Uplands and Lowlands Sub-Committees must have a minimum of 10 members, with the Chair of the Development Control Committee being appointed to both sub-committees and all other members of the Development Control Committee being appointed to either the Uplands or

	<p>Lowlands Sub-Committee, depending on the ward they represent. Where wards cross the Lowlands and Uplands boundary the ward member may be appointed to either Sub-Committee. This would also be kept under review in future;</p> <ol style="list-style-type: none"> 4. Agree that instruction be given to private practice solicitors or suitable counsel to undertake legal work when considered necessary or appropriate; 5. Agree to include the Protocol for Recording at Public Meetings in Part 6 of the Council's Constitution.
Corporate Priorities	<ul style="list-style-type: none"> • Putting Residents First • Working Together for West Oxfordshire
Key Decision	NO
Exempt	NO
Consultees/ Consultation	Constitution Working Group.

1. EXECUTIVE SUMMARY AND BACKGROUND

- 1.1** This report recommends changes to the Council's Constitution, following a hybrid meeting of the Constitution Working Group held on 19 July 2024 when the Working Group considered a number of items on its work plan. Council is recommended to approve the recommendations made to it by the Constitution Working Group.
- 1.2** The Council's Constitution sets out how the Council operates, how decisions are taken and the procedures which are followed to ensure that decision-making is efficient, transparent and accountable to local people.
- 1.3** The Council has a legal duty to publish a constitution, which should be reviewed at least annually. The Council has an established, cross-party Constitution Working Group, which meets regularly and makes recommendations to Council regarding amendments to the Constitution, keeping it up to date with changes to legislation, governance practice and the wishes of the Council.

2. MEMBERS PLANNING CODE OF GOOD PRACTICE

- 2.1** The Constitution Working Group considered a report which would recommend to Council the adoption of a version of Lawyers in Local Government (LLG)'s Members Planning Code of Good Practice, as an addition to Part 6 (Codes and Protocols) of the Council's Constitution.
- 2.2** The first protocol was first published in 2003 then refreshed in 2007 and is a nationally recognised protocol that was originally prepared in response to a series of successful court challenges concerning local planning authorities and members' conduct or conflicts of interests. The drafting of the Code was subject to consultation and comment from a number of local authorities through the machinery of LLG as well as with the Local Government Ombudsman and from firms of solicitors or counsel.
- 2.3** The Constitution Working Group reiterated at their meeting the need for good practise and highlighted the proposals were of a reasonable nature.

3. PLANNING CALL-IN

- 3.1** The Constitution Working Group considered a report, which considered a recommendation from the Planning Advisory Service (PAS) that the period for councillor call-in is extended from 21 days to 28 days (from the date of notification), to align with the time period for representations (Part 4F: Functions in relation to Planning, PDM4).
- 3.2** The Working Group agreed that '21' would be removed from Part 4F: Functions in relation to Planning, PDM4, and replaced with '28' to read:

"To determine (with or without planning conditions or obligations) all planning applications and applications for Advertisement Consent, Listed Building Consent, Conservation Area Consent (as amended), Certificates of Lawfulness, Time Limit Extensions, Variation of

Conditions (S73) or Prior Approval under the General Permitted Development Order under delegated powers, with the following exceptions.

(a) Planning Applications which within ~~21~~ 28 days of the date of registration any District Councillor requests (in writing) that it be determined by the Committee/Sub-Committee, stating the planning reasons for such referral.”

- 3.3 The Constitution Working Group resolved to recommend to Council to extend the time period for Councillor Call-In from 21 days to 28 days (from the date of notification), to align with the time period for representations.

4. PLANNING SUB-COMMITTEE SIZES

- 4.1 The Development Control Committee, at its meeting of 22 May 2024, was unable to appoint the required minimum of 11 members to both planning Sub-Committees, based on the nominations received from political groups of the members appointed to the Development Control Committee.
- 4.2 The Development Control Committee resolved to request that the Constitution Working Group revisit the rule on the sizes of the planning sub-committees to enable additional flexibility to political groups. Officers advised that a sub-committee size of 10 members was considered to be acceptable. The Working Group suggested the sizes of Area-Planning Sub-Committees be kept under review, stating that future demographics could change.
- 4.3 The Constitution Working Group resolved to recommend to Council to make the size of the Lowlands and Uplands Area Sub-Committees more flexible in Part 3C: Committee Functions.
- 4.4 The Constitution Working Group resolved to recommend to Council that the Uplands and Lowlands Sub-Committees must have a minimum of 10 members (currently 11), with the Chair of the Development Control Committee being appointed to both sub-committees and all other members of the Development Control Committee being appointed to either the Uplands or Lowlands Sub-Committee, depending on the ward they represent. Where wards cross the Lowlands and Uplands boundary the ward member may be appointed to either Sub-Committee. This would also be kept under review in future.

5. DELEGATION TO THE HEAD OF LEGAL SERVICES TO APPOINT COUNSEL

- 5.1 The Constitution Working Group agreed to recommend to Council that instruction be given to private practice solicitors or suitable counsel to undertake legal work when considered necessary or appropriate by the Head of Legal Services.
- 5.2 The Working Group agreed that ‘junior barristers’ would be removed from Part 4C: Functions in relation to Legal Services, #3, and replaced with ‘suitable counsel’ to read “*Authority to instruct private practice solicitors or suitable counsel to undertake legal work when considered necessary or appropriate.*”

6. PROTOCOL FOR RECORDING AT PUBLIC MEETINGS

- 6.1 The Constitution Working Group considered a report which requested Members consider minor amendments to the Protocol for Recording of Public Meetings for various reasons.
- 6.2 The proposed changes were shown in red text in the original document contained within the agenda reports pack for the Working Group meeting held on Friday 19 July 2024.
- 6.3 It was suggested to the Working Group that Members refer to the Communications Protocol, the Member Code of Conduct, and the Council's communications team regarding any social media use during meetings.
- 6.4 The Working Group agreed to recommend to Council that the Protocol for Recording at Public Meetings be included in Part 6 (Codes and Protocols) of the Council's Constitution.

7. ALTERNATIVE OPTIONS

- 7.1 Council may choose not to accept recommended updates to its Constitution. By doing this, there is a risk in ensuring that decision-making is efficient, transparent and accountable to local people. This course of action is not recommended.

8. FINANCIAL IMPLICATIONS

- 8.1 There are no financial implications arising from this report.

9. LEGAL IMPLICATIONS

- 9.1 There are no legal implications arising from this report.

10. RISK ASSESSMENT

- 10.1 By not regularly considering updates to the Council's Constitution, which sets out how the Council operates, how decisions are taken and the procedures which are followed, there is a risk to ensuring that decision-making is efficient, transparent and accountable to local people.

11. EQUALITIES IMPACT

- 11.1 There are no equality implications arising from this report.

12. CLIMATE AND ECOLOGICAL EMERGENCIES IMPLICATIONS

- 12.1 There are no climate and ecological emergencies implications arising from this report.

13. BACKGROUND PAPERS

None.

(END)