



**WEST OXFORDSHIRE
DISTRICT COUNCIL**

WEST OXFORDSHIRE DISTRICT COUNCIL

Name and date of Committee	COUNCIL 19th OCTOBER 2022
Report Number	Agenda Item 10
Subject	REPORT OF THE CONSTITUTION WORKING GROUP
Wards affected	ALL
Accountable member	Chair of Constitution Working Group: Cllr Ted Fenton
Accountable officer	Susan Sale, Interim Monitoring Officer Email: susan.sale@westoxon.gov.uk
Summary/Purpose	To consider proposals from the Constitution Working Group for amendments to the West Oxfordshire District Council to adopt new Council Procedure Rules, Officer Employment Procedure Rules and a Protocol on the Conferment of Honorary Titles.
Annexes	Annex A: Terms of Reference of Constitution Working Group Annex B: Membership of Constitution Working Group 22/23 Annex C: Council Procedure Rules Annex D: Officer Employment Procedure Rules Annex E: Protocol on Conferment of Honorary Titles
Recommendation/s	Council is recommended to: <ol style="list-style-type: none">1. Agree to establish a Working Group, to report to Council, to be known as the Constitution Working Group, with immediate effect until the Annual Council meeting in May 2023;2. To approve the terms of reference of the Constitution Working Group as set out in Annex A to this report;3. To appoint to the membership of the Constitution Working Group as set out in Annex B to this report and to note that the Group appoint Cllr Fenton as their Chair;4. Approve the Council Procedure Rules at Annex C to this report and formally adopt them as part of the Council's Constitution from 20th October 2022;

	<p>5. Approve the Officer Employment Procedure Rules at Annex D to this report and formally adopt them as part of the Council's Constitution from 20th October 2022;</p> <p>6. Approve the Protocol on Conferment of Honorary Titles at Annex E to this report and formally adopt it as part of the Council's Constitution from 20th October 2022;</p> <p>7. Delegate authority to the Monitoring Officer to make minor and consequential amendments to the Constitution.</p>
Corporate priorities	All
Key Decision	NO
Exempt	NO
Consultees/ Consultation	<p>Chief Executive</p> <p>Chief Financial Officer</p> <p>Democratic Services Business Manager</p> <p>Group Leaders</p> <p>Constitution Working Group</p>

1. BACKGROUND

The current Interim Monitoring Officer has been tasked with undertaking a review of the Constitution and ensuring that it is clear, complete, accurate, lawful and fit for purpose.

To that end, the Constitution Working Group established in 21/22 by Council for the municipal year, has reconvened, with refreshed membership, and Council's formal approval is sought for it to continue to act as a Working Group, reporting to Council, for the remainder of the 22/23 year.

The terms of reference of the Constitution Working Group for 22/23 have also been refreshed and can be found at Annex A to this report. Council's approval of the terms of reference is sought.

Council is also asked to appoint to the membership of the Constitution Working Group for 22/23 in accordance with those nominated by Group Leaders, in accordance with political balance, as set out in Annex B, and to note that the Group have appointed Cllr Fenton as their Chair.

The Constitution Working Group has been considering advice from the Monitoring Officer, and now recommends amendments to the Constitution to the Council.

2. MAIN POINTS

2.1 COUNCIL PROCEDURE RULES

The interim Monitoring Officer has proposed amendments to the Council Procedure Rules, to provide greater clarity around procedures, to ensure transparency, to promote public engagement and to ensure compliance with statutory requirements.

Recommended revised Council Procedure Rules can be found at Annex C to this report.

The proposed amendments can be summarised as follows:

- An index to the individual rules has been included;
- Clarity is provided around decision making in respect of constitutional changes ie that any motion to Council to change the constitution will be referred to the Constitution Working Group to consider and make recommendations to Council;
- Clarity is provided that all notices may be considered duly served by being sent by email to the Monitoring Officer via a generic email address and that names included in such emails constitute signatures;
- Clarity is provided around the business to be conducted by Annual Council to ensure compliance with statutory requirements;

- Provision is made for all 3 statutory officers to address Council either via announcements or by report, to reflect their statutory rights;
- Provision is made for Annual Council to receive a report from the Leader concerning Executive arrangements;
- Clarity is provided around the arrangements for the election of a Chair and appointment of a Vice Chair at Annual Council, providing for the current Chair to preside and for the opportunity for a vote of thanks for the outgoing Chair and Vice-Chair;
- Clarity is provided that it is Council who establishes non-Executive Committees, determines their size and makes appointments to them;
- Clarity is provided that it is a Parent Committee who appoints their Chair and Vice Chair, establishes its Sub-Committees, their size and makes appointments to them.
- Clarity is provided that it is the Sub-Committee that appoints their Chair and Vice-Chair;
- Clarity is provided that Sub-Committees must be politically balanced, unless the parent Committee chooses not to take up their seats, and offer their allocation to other Members;
- Clarity is provided that the Development Control Committee may choose not to appoint to their Sub-Committees in accordance with political balance, and that Groups may offer their seats on those Sub-Committees elsewhere to enable Members of Wards in the Area of the Sub-Committee to be appointed;
- Clarity is provided that Substitutes on Committees and Sub-Committees must be from the same political group, with the exception of the Development Control Sub-Committees;
- Provision is made that Substitutes on Development Control and Development Control Sub-Committees may be from any Member of the Council who has undertaken the requisite training, and that Substitutes on the Licensing Sub Committee and Standards Sub-Committee must be from the 'parent' Committee and have undertaken the requisite training;
- Clarity is provided that no member of the Executive may be substituted;
- Clarity is provided that where a Chair or Vice-Chair is substituted, the substitute does not automatically take that role;
- Clarity is provided in respect of the business of Ordinary Council meetings, to reflect statutory requirements;
- Urgent business is further defined;
- Clarity is given around who may call an Extraordinary Council meeting;
- Provision is made for the calling of Special Council meetings eg. For the conferment of Honorary Titles to be considered;
- Provision is made for the date, location and time of Council meetings to be agreed by the Council with provisions for flexibility where required and for Committee meetings to determine the start time of their meetings;

- Provision is made for the Leader to determine the location of Executive meetings, to enable them to vary locations across the District to promote public engagement in democracy;
- A procedure is provided for where a meeting fails to be quorate;
- Provision is made for meetings to last a maximum of 3 hours unless a vote is carried to extend the time period;
- Clarity is given as to the scope of questions that may be put by the public, together with grounds for refusal of such questions, time limits and provision for supplementary questions;
- Clarity is also provided as to the scope of questions that Members may put to Council, grounds for refusal, time limits, forms of response and provision for urgency;
- Clarity is provided around the submission of motions, the order in which they are considered and a limit on how many each political group may submit to each Council meeting. A limitation is imposed on the word count and grounds for rejection are provided;
- The circumstances where motions without notice are permitted has been extended;
- Clarity is provided to rules of debate, and the provisions for amending or withdrawing a motion;
- Consequences of various closure motions are included;
- Clarity is provided around voting and provision made for ballot voting to reflect the statutory provisions;
- Clarity is provided around the role of Officers at Council meetings;
- Provision is made for representatives on outside bodies to be able to report on those outside bodies to Council;
- The status of draft minutes and decisions is made clear;
- Provision is made for members to use electronic devices in Council meetings, for example to increase public engagement, provided no disturbance is caused;
- Clarity is provided around the Council's ability to delegate matters;
- Greater provision is made for Members to attend meetings where they are not a member and to have access to information in certain circumstances;
- Provision is made for the Council to consider a Vote of no Confidence in the Chair;
- Provision is made for both the appointment and removal of the Leader;
- Provision is made for both the election and removal of the Chair;
- Provision is made for the ability to film and record meetings with reference to a stand alone protocol, to be drafted, on the topic;
- Provision is made for suspension and amendment to the rules in certain circumstances to provide for flexibility where appropriate.

2.2 OFFICER EMPLOYMENT PROCEDURE RULES

Local Government legislation makes provisions around the appointment and dismissal of a Local Authority's Senior Officers, when operating under an Executive model, and it is prudent to have documented, adopted procedures encompassing the statutory requirements for clarity and transparency.

The Local Authorities (Standing Orders)(England) Regulations 2001 and the *Local Authorities (Standing Orders)(England)(Amendments) Regulations 2015* categorize senior officers into:

- The Head of Paid Service;
- Chief Officers ie those who are direct reports of or are directly accountable to the Chief Executive;
- Deputy Chief Officers ie those who are direct reports of or are directly accountable to Chief Officers.

Recommended Officer Employment Procedure Rules can be found at Annex D to this report. In summary, the procedure rules provide:

- In respect of the appointment of a Statutory Officer, the appointment shall be considered by the Council's Performance & Appointments Committee, who shall recommend any appointment to the Council, who has the power to appoint to such roles;
- The power to appoint to Non-Statutory Chief Officers or Deputy Chief Officers, lies with the Head of Paid Service or their nominated representative;
- When appointing a Non-Statutory Chief Officer or Deputy Chief Officer, a consultation process with the Executive must be undertaken prior to an appointment being made;
- The Performance & Appointments Committee shall be responsible for disciplinary action in respect of Statutory Officers, but should they consider dismissal, the views of an Independent Panel must be sought, and, if appropriate, a recommendation to dismiss shall be made to Council, who has the power to dismiss a Statutory Officer;
- The Head of Paid Service, or their nominated representative, shall have the power to deal with disciplinary action including dismissal against a Non-Statutory Chief Officer and a Deputy Chief Officer;
- A Non-Statutory Chief Officer or Deputy Chief Officer has a route of appeal against dismissal, to the Head of Paid Service or his nominated representative, whereas a Statutory Officer has no right of appeal against dismissal.

2.3 PROTOCOL ON THE CONFERMENT OF HONORARY TITLES

Section 249 of the Local Government Act 1972 provides that a Local Authority may, by a resolution of not less than two thirds of the members voting, confer the title on honorary alderman or woman on persons who have, in the opinion of the Council, rendered eminent services to the Council as past members.

On 20th July 2022 Council considered a report recommending that the Council adopted a points system to determine eligibility for honorary titles, and call a special meeting to consider bestowing the title on two former Councillors. Council considered the proposed points based scheme but had reservations. They therefore resolved to refer the matter to the Constitution Working Group for further consideration.

The Constitution Working Group have now considered the matter and recommend to Council adoption of the Protocol for Conferment of Honorary Titles, produced at Annex E to this report.

The protocol provides that the Chair of the Council, the Leader or any Group Leader, may bring a motion to Council seeking agreement to convening a special Council meeting to consider conferring the honorary title upon any former Member. The Protocol encourages consultation with all Members in advance, via their Group Leaders, and provides that such matters be considered at the Annual Council meeting. The only criteria for such conferment is that the Council must consider that eminent service has been provided by the former member, to West Oxfordshire District Council. Members may take into account length of service, roles held and any other notable contribution made and decisions will be made on the individual merits of each particular nomination.

Any former Member who has the title of Honorary Alderman conferred upon them by the Council is entitled to attend Council meetings, when the public are also able to attend, but do not have a right to speak, participate in a debate or vote on any item.

3. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

4. LEGAL IMPLICATIONS

Legal Implications are addressed in the body of the report

5. RISK ASSESSMENT

- 5.1.** The changes proposed to the Constitution are proposed with a view of mitigating any current risk facing the Council by way of lack of transparency in process and procedures,

leading to reputational damage, and potential non-compliance with statutory requirements.

6. EQUALITIES IMPACT (IF REQUIRED)

- 6.1.** The Constitution is made available to all Members and the Public via the Council's website. Where accessibility difficulties are encountered, the Council can provide a copy of the Constitution in different formats.

7. CLIMATE CHANGE IMPLICATIONS (IF REQUIRED)

- 7.1.** Not applicable

8. ALTERNATIVE OPTIONS

- 8.1.** To not amend the Constitution.

9. BACKGROUND PAPERS

- 9.1.** West Oxfordshire District Council Constitution dated 18th May 2022, as amended.