



WEST OXFORDSHIRE  
DISTRICT COUNCIL

## WEST OXFORDSHIRE DISTRICT COUNCIL

Name and date of Committee	<b>COUNCIL – 22 MARCH 2023</b>
Subject	<b>REPORT OF THE CONSTITUTION WORKING GROUP</b>
Wards affected	ALL
Accountable member	Chair of Constitution Working Group: Councillor Ted Fenton Email: <a href="mailto:Ted.Fenton@westoxon.gov.uk">Ted.Fenton@westoxon.gov.uk</a>
Accountable officer	Susan Sale, Interim Monitoring Officer Email: <a href="mailto:Susan.Sale@westoxon.gov.uk">Susan.Sale@westoxon.gov.uk</a>
Summary/Purpose	To consider proposals from the Constitution Working Group for amendments to the West Oxfordshire District Council Constitution to adopt a new Protocol on the Pre-Election Period, Local Petition Scheme, Officer Decision Making Protocol, Social Media Policy and Executive Procedure Rules.
Annexes	Annex A: Protocol on the Pre-Election Period Annex B: Local Petition Scheme Annex C: Officer Decision Making Protocol Annex D: Social Media Policy Annex E: Executive Procedure Rules
Recommendation/s	Council is recommended to: <ol style="list-style-type: none"><li>1. Approve the Protocol on the Pre-Election Period, at Annex A to this report, and formally adopt it as part of the Council's Constitution from 23<sup>rd</sup> March 2023;</li><li>2. Approve the Local Petition Scheme, at Annex B to this report, and formally adopt it as part of the Council's Constitution from 23<sup>rd</sup> March 2023;</li><li>3. Approve the Officer Decision Making Protocol, at Annex C to this report, and formally adopt it as part of the Council's Constitution from 23<sup>rd</sup> March 2023;</li><li>4. Approve the Social Media Policy, at Annex D to this report, and formally adopt it as part of the Council's Constitution from 23<sup>rd</sup> March 2023;</li><li>5. Approve the Executive Procedure Rules, at Annex E to this report, and formally adopt it as part of the Council's Constitution from 23<sup>rd</sup> March 2023.</li></ol>
Corporate priorities	All
Key Decision	NO

Exempt	NO
Consultees/ Consultation	Constitution Working Group, Group Leaders, Chief Executive, Chief Financial Officer, Democratic Services Business Manager, Interim Monitoring Officer, the Executive.

## **1. BACKGROUND**

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

To that end, the Constitution Working Group, reconvened in 22/23 with fresh membership and revised terms of reference.

The Constitution Working Group recommended to Council in October 2022 revised Council Procedure Rules, Officer Employment Procedure Rules and a Protocol on Conferment of Honorary Titles. These amended parts of the Constitution were formally adopted by the Council and came into effect on 20<sup>th</sup> October 2022.

The Constitution Working Group recommended to Council in January 2023 revised Glossary, Summary & Explanation, Articles, Functions and responsibilities, Standards Sub-Committee Procedure Rules and a Monitoring Officer Protocol. These amended parts of the Constitution were formally adopted by the Council and came into effect on 19<sup>th</sup> January 2023.

The Constitution Working Group has met several times since the January Council meeting and considered other parts of the current Constitution and makes recommendations to Council for the adoption of further amended parts, to be effective from 23<sup>rd</sup> March 2023.

## **2. MAIN POINTS**

### **2.1 PROTOCOL ON THE PRE-ELECTION PERIOD**

The proposed Protocol on the Pre-Election Period is set out at Annex A to this report.

This new part of the Constitution sets out guidance and advice for Members, relating to publicity, use of resources and premises, consultations, Council meetings, and conduct matters, during the heightened period of political sensitivity in the run up to an election.

The Protocol supplements the Local Government Association guidance and any guidance issued to Members by the Council's Returning Officer.

### **2.2 LOCAL PETITION SCHEME**

It is no longer a mandatory legal obligation for a Council to have a Petition Scheme, nor to accept Petitions from constituents. However, it is considered to be good practice, and an effective way of engaging with the electorate, constituents, local communities, stakeholders and partners. The Petition Scheme has been reviewed, updated and amended and can be found at Annex B to this report.

The proposed Petition Scheme makes two provisions relating to provisions; firstly that a petition must contain 500 signatures for it to be accepted and dealt with as a valid petition and secondly that for a petition to trigger a debate at full Council, it must contain at least 1,500 signatures. Council's views are welcomed as to whether these thresholds are considered appropriate.

The scheme further provides that petitions may be submitted by post, by hand, electronically, or by way of an on line petition. Council's views are sought as to whether on-line petitions should be accepted in this way; whilst they embrace the digital era and promote accessibility, it is considered that they can also be manipulated and may not always be an accurate reflection of local views.

The Scheme provides circumstances upon which a Petition will not be accepted and that includes where it is vexatious, offensive or otherwise inappropriate, it relates to a quasi-judicial matter such as a planning or licensing application, or it relates to a matter where there is already a right of appeal that has not been exhausted.

### **2.3 OFFICER DECISION MAKING PROTOCOL**

It is proposed that a new part of the Constitution is adopted to set out robust governance arrangements, incorporating statutory obligations, around officers making executive decisions under delegated authority.

The Officer Decision Making Protocol at Annex C, establishes a procedure around notice of decisions, exempt information, reports, consultation and recording of decisions, which promotes transparency and facilitates agile and quick decision making with adequate scrutiny and good governance.

### **2.4 SOCIAL MEDIA POLICY**

It is considered prudent to include a Social Media Policy for Councillors in the constitution for transparency and as a useful guidance document and reference point. Annex D sets out the proposed new Social Media Policy, that is supported by the Council's Monitoring Officer, Constitution Working Group, Communications Team and Fraud Investigation Team. The document builds on current guidance published by the Local Government Association. It should be noted that many complaints relating to Councillor's conduct and allegations that Councillors have breached their code, relate to Councillor's use of social media. This policy is intended to support Councillors in upholding the highest standards of conduct and ethics when acting as Councillors in their use of social media.

### **2.5 EXECUTIVE PROCEDURE RULES**

It is proposed that amendments are made to the Executive Procedure Rules to ensure that executive decision making is agile but transparent, and embraces good governance. Annex E contains the proposed revised and amended Executive Procedure Rules.

It should be noted that the law places all Executive power in the Leader, in the governance model operated by West Oxfordshire District Council. However, the Leader as delegated Executive authority primarily to:

- The Executive as a body;
- Individual Executive Members; and
- Officers.

Governance relating to Officer's making Executive decisions is provided by the Scheme of Officer delegations in Part 4 of the Council's constitution, as well as the new Officer Decision Making Protocol being considered for adoption by Council.

Governance relating to the Executive making decisions as a body is contained within the *Local Government Act 1972* and the *Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012*.

Executive matters delegated to an Individual Executive Member are set out in Part 3 of the constitution and are notified by the Leader to full Council on an annual basis. Currently the constitution provides that such decisions are made by an Individual Executive Member at a meeting open to the public (unless the matter is exempt or confidential). The new procedure rules provide for such decisions to be made without the need to hold a physical meeting, but governance arrangements around such decision making is still thorough; the matter to be decided must be on the forward plan for 28 days if key, decisions may only be made following the publication of an officer report for 5 days, the decision must be recorded and published, and, if key, remains subject to call in provisions, in the usual way.

### **3.0 THE CONSTITUTION OF WEST OXFORDSHIRE DISTRICT COUNCIL**

Significant progress has been made in both 2021/22 and 2022/23 in terms of reviewing and updating the West Oxfordshire District Council's Constitution, to ensure it is agile, transparent, accurate and complete.

However, it is recommended that this is a continuous process and that the Constitution is kept under permanent review to ensure that good practice is kept updated, legislative changes are incorporated and any lessons learnt are addressed. To this end, it is recommended that the Annual Council meeting in May 2023 considers establishing a further Constitution Working Group, and makes appointments to it, for the year 2023/24. The Monitoring Officer will make suggestions to the group for their work programme for 23/24 at the first meeting.

### **4.0 FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report.

### **5.0 LEGAL IMPLICATIONS**

Legal implications are addressed in the body of the report.

### **6.0 RISK ASSESSMENT**

The changes proposed to the Constitution are proposed with a view to 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.

### **7.0 EQUALITIES IMPACT (IF REQUIRED)**

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.

#### **8.0 CLIMATE CHANGE IMPLICATIONS (IF REQUIRED)**

Not applicable

#### **9.0 ALTERNATIVE OPTIONS**

To not amend the Constitution which would lead to a lost opportunity in terms of improving agile decision making, promoting transparency and ensuring robust governance arrangements.

#### **10.0 BACKGROUND PAPERS**

West Oxfordshire District Council Constitution dated 18<sup>th</sup> May 2022 as amended.

Reports to Council dated 19<sup>th</sup> October 2022 and 18<sup>th</sup> January 2023

Minutes of the Constitution Working Group meetings