



WEST OXFORDSHIRE
DISTRICT COUNCIL

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Name and Date of Committee	COUNCIL – 27 SEPTEMBER 2023
Subject	RECOMMENDATIONS OF THE CONSTITUTION WORKING GROUP INCLUDING THE STRUCTURE OF OVERVIEW AND SCRUTINY COMMITTEES
Wards Affected	None
Accountable Member	Councillor Mathew Parkinson, Chair of the Constitution Working Group Email: mathew.parkinson@westoxon.gov.uk
Accountable Officer	Andrea McCaskie, Director of Governance Email: democratic.services@westoxon.gov.uk
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Summary/Purpose	To present the recommendations of the Constitution Working Group meetings held on 23 June 2023 and 11 August 2023, including a recommendation to replace the three existing overview and scrutiny committees with a single new overview and scrutiny committee.
Annexes	Annex A – Part 2: Articles (updated with changes shown) Annex B – Part 3C: Committee Functions extract (updated with changes shown)
Recommendation(s)	That Council Resolves to: <ol style="list-style-type: none">1. Agree to include in the Constitution that the Chair of an Overview and Scrutiny Committee must be an opposition member;2. Agree to replace the three current overview and scrutiny committees with a single Overview and Scrutiny Committee with 24 Members with effect from 5 October 2023, and in doing so:<ol style="list-style-type: none">a) Agree to update Part 2: Articles and Part 3C: Committee Functions as shown in Annex A and Annex B respectively;b) Authorise the Director of Governance to make other consequential amendments to the Constitution (at parts 1A, 3A, 3D, 5A, 5B, 5C, 5F, 5G, 6E, and 6H);

- c) Delegate authority to the Director of Governance to appoint members to the Overview and Scrutiny Committee with effect from 5 October 2023 in accordance with political proportionality and the wishes of political groups;
 - d) Agree that the Overview and Scrutiny Committee will meet monthly on the dates set out in paragraph 3.7, with the first meeting being held on Wednesday 8 November 2023 at 5.30pm;
 - e) Request that the Council's Independent Remuneration Panel considers whether the Vice-Chair of the Overview and Scrutiny Committee should be paid a special responsibility allowance, and if so, at what level and any backdating to be applied, and report back to Council;
 - f) Note that a programme of member briefings is being developed as an alternative to officers providing information to members through verbal updates and presentations at overview and scrutiny committee meetings.
3. Agree to include in the Constitution (at Part 5A: Council Procedure Rules, paragraph 6.2) that the Monitoring Officer is authorised to cancel meetings and to reschedule meetings with reasons and in consultation with the Chief Executive and the relevant Chair of Council, a Committee or Sub-Committee, provided that the agenda for the meeting has not been published.
 4. Agree to include in the Constitution (at Part 3C: Committee Functions) how the parish areas within the Brize Norton and Shilton ward and the Hailey and Minster Lovell and Leafield ward are split between the Lowlands and Uplands areas.
 5. Agree to replace the requirement (at Part 3C: Committee Functions) that there are 13 seats on the Lowlands Sub-Committee and 11 seats on the Uplands Sub-Committee with a rule that the Lowlands and Uplands sub-committees must have a minimum of 11 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 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.
 6. Note that the Constitution Working Group agreed for the Director of Governance to address a number of items on the Constitution Working Group's work plan under delegated authority, as set out in paragraph 7.1.

	7. Note that future versions of the Constitution will be published to the website using the Modern.gov system in order to improve transparency, ease of updating and version control.
Corporate priorities	<ul style="list-style-type: none"> Working Together for West Oxfordshire
Key Decision	NO
Exempt	NO
Consultees/ Consultation	Constitution Working Group

1. BACKGROUND

- 1.1** 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.
- 1.2** The Council has a legal duty to publish a Constitution and it should be reviewed at least annually. The Council has established a cross-party Constitution Working Group which meets regularly and makes recommendations to Council about amendments to the Constitution to keep up to date with changes to legislation, governance practice and the wishes of the Council.
- 1.3** The Constitution Working Group held meetings on 23 June 2023 and 11 August 2023 and the recommendations arising from those meetings are detailed in this report.
- 1.4** This report proposes changes to the structure of overview and scrutiny committees but the structure of other committees e.g. Audit and Governance Committee would remain as is.

2. OVERVIEW AND SCRUTINY CHAIRS (RECOMMENDATION 1)

- 2.1** The Council's three overview and scrutiny committees are currently chaired by opposition members. While this is not a legal requirement, it is considered to be good practice because, in addition to presiding at meetings, overview and scrutiny chairs have an important role in providing democratic checks and balances where the Executive intends to take a decision, or enter into a private meeting, without having provided 28 days' notice on the Executive Forward Plan. It is proposed that this be included in the Articles of the Constitution (Part 2) as a requirement going forwards.

3. OVERVIEW AND SCRUTINY COMMITTEE STRUCTURE (RECOMMENDATION 2)

- 3.1** The Council currently has three Overview and Scrutiny Committees, which have an equal standing in the Constitution and each have 15 members. In summer 2022 the Leader of the Council asked the newly appointed Democratic Services Business Manager to review the Council's overview and scrutiny function and present options for improving how the function operates. A paper was produced which was shared informally with Members of the Executive, group leaders and the Constitution Working Group. A number of improvement measures were implemented and it was proposed that further improvements could be facilitated by simplifying the committee structure i.e. replacing the three overview and scrutiny committees with a single overview and scrutiny committee in order to:
 - a) Properly embed pre-decision scrutiny as part of the work of overview and scrutiny and the executive decision making process;
 - b) Ensure effective scheduling of meetings;
 - c) Facilitate effective work planning and improve efficiency e.g. removing the need for reports to be presented to multiple committees, or for joint meetings of two committees to be held.
- 3.2** The Constitution Working Group on 23 June 2023 considered a proposal for a single committee of 15 Members and expressed reluctance about proceeding in the absence of a

broad consensus. Members raised concerns about the reduced opportunities for non-executive and opposition members to participate in overview and scrutiny, as well as concerns about the time commitment involved in attending monthly committee meetings.

- 3.3** An alternative proposal for a 24 Member Overview and Scrutiny Committee was considered by the working group on 11 August 2023 and this proposal was agreed unanimously.
- 3.4** There is a separate item on the Council agenda which sets out the allocation of seats on committees. Annex B to that report shows the allocation of seats on a 24 member overview and scrutiny committee.
- 3.5** The Constitution Working Group considered what the transitional arrangements would look like for moving from the existing structure of overview and scrutiny committees to the new model. It was considered that the scheduled meeting of the Economic and Social Overview and Scrutiny Committee on 4 October 2023 should go ahead because the agenda for that meeting was due to be published before the 27 September 2023 Council meeting.
- 3.6** For this reason, it was considered that should Council agree the recommendation to move to a single Overview and Scrutiny Committee, there would need to be a delegation to the Director of Governance to appoint members to the new committee in accordance with the political proportionalities shown in the report which is a separate item on the Council agenda and the wishes of political groups. Substitute members on overview and scrutiny committees can be any Member of Council apart from Members of the Executive.
- 3.7** It is proposed that a meeting of the Overview and Scrutiny Committee is scheduled to take place in the week prior to each meeting of the Executive, to enable timely pre-decision scrutiny of Executive decisions. Where possible meetings of the new Overview and Scrutiny Committee will be held on dates that are already allocated for meetings of the of the existing overview and scrutiny committees. The Constitution Working Group felt that start times would be important as daytime meetings every month would be an issue for many Members. 5.30pm was considered to be a reasonable start time but the Committee will be able to determine its own start time at its first meeting. The following meetings dates and times are therefore proposed:
 - Wednesday 8 November 2023, 5.30pm
 - Wednesday 6 December 2023
 - Wednesday 10 January 2024
 - Wednesday 7 February 2024
 - Thursday 29 February 2024 (Council meets on the Wednesday)
 - Wednesday 10 April 2024
- 3.8** Currently there are no provisions for paying a special responsibility allowance to the Vice Chair of an overview and scrutiny committee. The Constitution Working Group agreed that it was appropriate to consider the Vice Chair receiving a special responsibility allowance, given the enhanced responsibilities and increased number of meetings of a single committee. This is a matter that would need to be referred to the Council's Independent Remuneration Panel, which would report back to Council and make recommendations on the level of any such allowance and any backdating to be applied.

3.9 The Constitution Working Group noted that the Overview and Scrutiny Committee would expect to receive written reports rather than presentations and verbal updates, which would create more time for questions. The updates were considered to be important and should not be lost altogether so it is proposed that officers facilitate a regular programme of member briefing sessions, which should take place virtually and be recorded where appropriate. A programme will be worked up but could include briefings on the following topics:

26 October 2023 (2.00pm) – Local Plan

1 November 2023 – Housing Associations

TBC November / December 2023 – Draft Budget

29 November 2023 (after Council) – Elections Act 2022 second tranche

TBC December 2023 – Flood Management Action Plan

TBC January/February 2024 – Health

TBC March 2024 - Police

4. CANCELLATION AND RESCHEDULING OF MEETINGS (RECOMMENDATION 3)

4.1 The Constitution Working Group noted that it was current practice for officers to consult with chairs on the cancellation of meetings (e.g. due to lack of business) but that this was not formalised in the Constitution. The working group recommend including in the Constitution an authorisation for the Monitoring Officer to cancel and reschedule meetings in consultation with the Chief Executive and the relevant chair, provided that reasons are given and the agenda for the meeting has not already been published.

5. LOWLANDS AND UPLANDS SUB-COMMITTEE WARD AREAS (RECOMMENDATION 4)

5.1 The Constitution Working Group noted that when the local wards within the Lowlands and Uplands Sub-Committee areas were listed in the Constitution earlier in the calendar year, the fact that two wards crossed the boundary was not specified. It is recommended that clarity is provided in the Constitution (Part 3C – see Annex B) how the parish areas within the Brize Norton and Shilton Ward and the Hailey and Minster Lovell and Leaffield ward are split between the Lowlands and Uplands areas. This is due to certain parishes within those wards falling within the Cotswolds Area of Natural Beauty.

6. LOWLANDS AND UPLANDS SUB-COMMITTEE MEMBERSHIP (RECOMMENDATION 5)

6.1 This item was referred to the Constitution Working Group for consideration at a meeting of the Development Control Committee held on 24 May 2023. The size requirements for the Lowlands (13 members) and Uplands (12 members) sub-committees were considered to be quite restrictive and due to the nominations made by political groups, the Development Control Committee had this year appointed 14 and 11 members respectively.

6.2 The Constitution Working Group noted that the members representing the Brize Norton and Shilton Ward and the Hailey and Minster Lovell and Leaffield ward should be able to sit

on either sub-committee but this did not necessarily solve the issue if the Members representing those wards did not sit on the Development Control Committee.

- 6.3** The Constitution Working Group recommend to Council that the Lowlands and Uplands sub-committees must have a minimum of 11 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 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.

7. USE OF MONITORING OFFICER'S DELEGATED AUTHORITY (RECOMMENDATION 6)

- 7.1** The Constitution Working Group noted its work plan on 11 August 2023 and in doing so agreed that the Director of Governance (Monitoring Officer) should use their delegated authority to make changes to the Constitution that were considered to be minor and non-controversial, such as the updating of post titles and the inclusion of certain adopted policies within the Constitution. These changes are set out in the table below for transparency.

#	Item	Reference	Description
1	Admin	Whole constitution	All links in the Constitution need checking to ensure they are correct.
2	Officer Code of Conduct	Part 6	The Business Manager for Continuity, Governance and Risk is working on an updated Employee Code Conduct which is not currently part of the Constitution and should be included after being formally adopted.
3	Members Code of Conduct	Part 6A	Need to amend Appendix C of the code – for clarity and consistency as agreed with other Oxfordshire Monitoring Officers. Should now read: Any Body of which you are a member or in a position of general control or management which is: <ul style="list-style-type: none"> • Exercising functions of a public nature; • Directed to charitable purposes; or • One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union). References to Cabinet at Page 6 paras 7.1 – 7.3 to be revised to Executive.
4	Whistle-blowing Policy	Part 6	The Council already has a whistleblowing policy but it's not part of the Constitution and should be included.
5	Anti-Fraud & Corruption Policy	Part 6	WODC already has an Anti-Fraud and Corruption Policy but it is not part of the Constitution and should be included.
6	Officer Employment Rules	Part 5J	In compliance with The Local Authorities (Standing Orders) England Regs. 2001 Page 175 Para 3.2 Consultation Procedure for Appointment. The first line needs to include 'Statutory Chief Officers' and the table at Para 3.3 under column 3 Conditions insert the words in the first 3 rows for Head of

			Paid Service, Chief Finance Officer, Monitoring Officer “Requires consultation with Executive Members and requires Council approval.”
7	Contract Rules	Part 5H	<ul style="list-style-type: none"> • 20.3 & 20.4 replace Borough with Authority’s • 22.1 Replace relevant Director with Head of Paid Service • 4.2.10 replace reference to Council’s with Authority’s • Para 4.4, 6.14, 6.2.1 replace reference to Cabinet to Executive • Para 11.3 remove last bullet point symbol • Typo on Page 7 replace ‘but’ with ‘by’.
8	Delegations	Part	<ul style="list-style-type: none"> • Page 68 re Chief Executive Officer’s Urgency & Emergency powers – should also be included in Part 4 Officer Delegations in full on Page 73 between paras 4 and 5. • Remove reference after the Chief Finance Officer ‘who also holds the position of Deputy Chief Executive’.

8. PUBLICATION OF THE CONSTITUTION (RECOMMENDATION 7)

- 8.1 The Constitution is available to view on the Council’s website. Currently it is available to view as eight separate PDF documents; contents, glossary of terms and the six parts of the Constitution. When updates to the Constitution are approved the relevant parts are changed and replaced with a new version on the website.
- 8.2 Going forwards Democratic Services will use the Modern.gov system publish the Constitution to the Council website. This will enable users to open either the full Constitution document or individual sections or protocols within in. This is intended to make the Constitution easier to use (and update), and will also assist with strengthening version control.

9. FINANCIAL IMPLICATIONS

- 9.1 A reduction in the number of overview and scrutiny chairs from three to one would result in a small saving in the special responsibility allowances paid to members (at currently 2x £2,611). This saving would be partially offset if a special responsibility allowance was introduced for the Vice Chair following receipt of the advice of the Council’s Independent Remuneration Panel (currently estimated to be in the region of £1,305 to £2,611). There are no other financial impacts arising from this report.

10. LEGAL IMPLICATIONS

- 10.1 The Council is required to publish a constitution and to appoint at least one overview and scrutiny committee.

11. RISK ASSESSMENT

11.1 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.

12. EQUALITIES IMPACT

12.1 The Constitution is made available to all Members and the Public via the Council's website. Use of the Modern.gov system to manage publication is intended to improve accessibility but where accessibility difficulties are encountered, the Council can provide a copy of the Constitution in different formats.

13. CLIMATE AND ECOLOGICAL EMERGENCIES IMPLICATIONS

13.1 There are no climate or ecological implications.

14. BACKGROUND PAPERS

14.1 None.

(END)