



WEST OXFORDSHIRE  
DISTRICT COUNCIL

## WEST OXFORDSHIRE DISTRICT COUNCIL

Name and Date of Committee	<b>COUNCIL – 19 MARCH 2025</b>
Subject	<b>RECOMMENDATIONS FROM THE CONSTITUTION WORKING GROUP</b>
Wards Affected	None
Accountable Member	Councillor Alaric Smith, Chair of the Constitution Working Group Email: <a href="mailto:alaric.smith@westoxon.gov.uk">alaric.smith@westoxon.gov.uk</a>
Accountable Officer	Andrea McCaskie, Director of Governance Email: <a href="mailto:democratic.services@westoxon.gov.uk">democratic.services@westoxon.gov.uk</a>
Report Author	Andrew Brown, Head of Democratic and Electoral Services Email: <a href="mailto:democratic.services@westoxon.gov.uk">democratic.services@westoxon.gov.uk</a>
Purpose	To present Council with recommendations arising from meetings of the Constitution Working Group held on 2 October 2024 and 7 November 2024.
Annexes	Annex A – Extract of Part 5C: Overview and Scrutiny Rules (with proposed changes shown) Annex B – Extract of Part 4C: Functions in Relation to Legal Services (with proposed changes shown) Annex C – Extract of Part 2: Articles of the Constitution (with changes shown) Annex D – Extract of Part 3C: Committee Functions (with changes shown) Annex E – Part 4B: Statutory and Proper Officers
Recommendations	That Council resolves to: <ol style="list-style-type: none"><li>I. Agree to remove the following provisions from paragraph 36 of Part 5C of the Constitution to ensure consistency with other parts of the Constitution in setting out which decisions are subject to call in (as shown in Annex A):<ol style="list-style-type: none"><li>ii. is taken by the Executive itself; or</li><li>iii. is taken under powers delegated by the Executive to</li></ol></li></ol>

	<p>individual Executive Member(s); or</p> <p>iv. is taken under powers delegated by the Executive to a Committee or Sub-Committee.</p> <ol style="list-style-type: none"> <li>2. Agree to include the Chair of the Council in Part 4C and the Vice-Chair of the Council and the Director of Place in both Part 4C and Article 2 as being authorised to apply the common seal of the Council and sign documents (as shown in Annexes B and C).</li> <li>3. Agree to include in the responsibilities of the Development Control Committee at Part 3C responsibility for determining the Council's response to Nationally Significant Infrastructure Projects within the District (as shown in Annex D).</li> <li>4. Agree to include in Part 4B additional delegations to the Head of the Counter Fraud and Enforcement Unit relating to reactive enforcement functions (as shown in Annex E).</li> <li>5. Delegate authority to the Director of Governance, in consultation with the Chair of the Constitution Working Group (which is due to meet on 26 March 2025), to adopt the new Contract Procedure Rules which have been rewritten following the implementation of the Procurement Act 2023.</li> </ol>
Corporate Priorities	<ul style="list-style-type: none"> <li>• Putting Residents First</li> <li>• Working Together for West Oxfordshire</li> </ul>
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 meetings of the Constitution Working Group held on 2 October and 7 November 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. CALL IN OF EXECUTIVE DECISIONS**

- 2.1** 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.
- 2.2** Call in is a democratic mechanism whereby within 5 clear working days of members being notified that an executive decision has been taken, any four members of the Council can ask for the decision to be called-in for scrutiny by the Overview and Scrutiny Committee. The Committee has the power to ask the decision maker (e.g. the Executive) to reconsider its decision with reasons but cannot overturn the decision. Executive decisions that are subject to call in may only be implemented after the 5 clear working days have passed or, if called in, after the Overview and Scrutiny Committee has met to scrutinise the decision and, if applicable, the decision maker has reconsidered and confirmed its original decision.
- 2.3** There is currently an inconsistency in the Constitution in terms of which decisions are subject to "call in" between Part 3A (Principals of decision making) and Part 5C (Overview and Scrutiny Rules).
- 2.4** Part 3A states that key decisions are subject to call in. Key decisions are executive decisions that for this Council involve expenditure or savings >£150,000 or have a significant impact on communities in 2+ ward areas. Key decisions may be taken by the Executive collectively or delegated to individual Executive Members or Officers.
- 2.5** Part 5C states that the following decisions are subject to call in:
  - a. Key decisions
  - b. Other decisions taken by the Executive
  - c. Decisions delegated to individual Executive Members
  - d. Decisions delegated by the Executive to an Executive Committee or Sub-Committee.

- 2.6 The Constitution Working Group noted that call in is intended to be used in exceptional circumstances where Members consider that a decision taken does not conform to the Council's decision-making principles. It was considered that the Overview and Scrutiny Committee's approach of subjecting selected Executive decisions to pre-decision scrutiny helps to minimise the need for decisions to be called in post-decision.
- 2.7 The Constitution Working Group also noted that the Executive Scheme of Delegation (at Part 3D) sets out the decisions delegated to Individual Executive Members and these have very low financial values e.g. debt write-offs with a value of £5,000 to £10,000, village hall grants up to £5,000, etc. No executive decisions are currently delegated to Executive Committees or Sub-Committees.
- 2.8 The effect of extending call in to non-key executive decisions would be to slow down decision making since those decisions can not be implemented until the call in window has expired (after 5 clear working days of the draft minutes or decision notice being published).
- 2.9 The Constitution Working Group recommend that Council agrees to amending Part 5C to remove ii, iii and iv as shown in Annex A to ensure consistency with Part 3A. If agreed this change will clarify that only key executive decisions will be subject to call in.

### **3. APPLYING THE COMMON SEAL OF THE COUNCIL**

- 3.1 The Common Seal of the Council is affixed to certain documents such as contracts exceeding £100,000 in value.
- 3.2 The Constitution Working Group noted that Part 4C does not include the Chair of the Council as being authorised to apply the common seal of the Council and sign documents, whereas Article 2 does include the Chair of the Council. The Working Group recommend that this inconsistency is addressed by adding the Chair of the Council to Part 4C.
- 3.3 The Working Group also recommend that it would be helpful to include the Vice-Chair of the Council and the Director of Place, in both Part 4C (Annex B) and Article 2 (Annex C).

### **4. RESPONSIBILITY FOR AGREEING THE COUNCIL'S RESPONSE TO NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS**

- 4.1 The established custom and practice is for the Development Control Committee to agree the Council's response to Nationally Significant Infrastructure Projects within the District.
- 4.2 At the full Council meeting on 27 November 2024 the Executive Member for Planning announced that the Council would need to agree its response to the Botley West Solar Farm application at a meeting of the Development Control Committee in February 2025.
- 4.3 The Constitution Working recommend that this is made explicitly clear in the Constitution with the addition of some specific wording to the responsibilities of the Development Control Committee in Part 3C, as shown in Annex D.

### **5. DELEGATIONS FOR REACTIVE ENFORCEMENT FUNCTIONS**

- 5.1 The Constitution Working Group noted that the Head of the Counter Fraud and Enforcement Unit has requested that delegations relating to various reactive enforcement powers are included in Part 4B the Council's Constitution to ensure that enforcement officers have the necessary powers to act.
- 5.2 The Constitution Working Group recommend that Part 4B is amended to include these delegations, as shown in red text in Annex E.

## **6. CONTRACT RULES**

- 6.1 The Council's Contract Procedure Rules have been rewritten following the implementation of the Procurement Act 2023.
- 6.2 This exercise has provided the opportunity to review the Council's own rules, which were last updated in 2023, to provide for extra flexibility, reduce red tape, and to remove barriers to local small and medium-sized enterprise (SME) engagement.
- 6.3 The Constitution Working Group is due to meet on 26 March 2025 to consider the new Contract Procedure Rules. To ensure that the new rules can be in place at the earliest opportunity, this report seeks a delegation to the Director of Governance to adopt the new Rules, in consultation with the Chair of the Constitution Working Group.

## **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.
- 7.2 Council could choose not to delegate authority to adopt the new Contract Procedure Rules and consider these at the Annual Council meeting but this approach may increase the risks associated with procurement in the meantime.

## **8. FINANCIAL IMPLICATIONS**

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

## **9. LEGAL IMPLICATIONS**

- 9.1 The Council has a duty to keep the Constitution up to date under S9P of the Local Government Act 2000. There are no other 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)