

Arun District Council

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| REPORT TO: | Constitution Working Party – 5 December 2022 |
| SUBJECT: | Updates to the Constitution |
| LEAD OFFICER: | Daniel Bainbridge – Group Head of Law & Governance and Monitoring Officer |
| LEAD MEMBER: | Councillor richard Bower |
| WARDS: | ALL |
| CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION: It is essential that the Constitution is up-to-date and operationally effective in order to support all strategic aims of the Council. | |
| DIRECTORATE POLICY CONTEXT: The Monitoring Officer is responsible for maintaining the Constitution and for ensuring that it is widely available for consultation by councillors, officers and the public. | |
| FINANCIAL SUMMARY: There are no financial implications associated with this report. | |

Not for publication

1. PURPOSE OF REPORT

- 1.1. To bring forward updates to the Constitution that are required both as a result of recent changes to the Council's officer structure, and additional proposed updates that the Group Head of Law & Governance (Monitoring Officer) considers are necessary to give effect to the operation of the Constitution.
- 1.2. To consider any proposals brought forward by members of the Working Party.

2. RECOMMENDATIONS

- 2.1 It is recommended that the Constitution Working Party considers all of the proposed amendments set out within the body of and Appendix 1 to this report and makes recommendations to Full Council for the approval of a revised version of the Constitution.

2. EXECUTIVE SUMMARY

- 2.1. The Constitution Working Party will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. Subject to paragraph 3.2 below amendments to the Constitution will only be made on the recommendation of the Constitution Working Party.
- 2.2. The Full Council has delegated authority to:

- (i) The Monitoring Officer to make consequential changes as a result of the modification or re-enactment of legislation or express changes consequential to an agreed decision of Full Council; and
- (ii) The Monitoring Officer, in written consultation with the Chair of the Constitution Working Party and distributed to Members at least 3 working days before the relevant Full Council meeting, to propose that for any other reason the proposed change be put direct to Full Council for consideration and decision.

3.3 In July 2022 the Chief Executive made changes to the officer staffing structure at senior management level, both within the Corporate Management Team and the Senior Management Team. While the Constitution, including the Officer Scheme of Delegation at Part 4, and the officer authorisations at Part 7 (Sections 1 and 2) have remained operational since that time, they and the remainder of the Constitution have required updating in order to reflect the revised officer structure.

3.4 Further, Councillor Coster has proposed that the Working Party considers reviewing the previous removal of the Rescission provisions and the existing Recovery and Referral provisions. Councillor Coster's correspondence with the Monitoring Officer and copies of previous legal advice sought by a previous Council Monitoring Officer are attached at Appendix 2.

3. DETAIL

3.1. Appendix 1 contains those sections of the Constitution that require updates as a result of the 2022 senior management restructure. All of the Monitoring Officer's proposed amendments are shown as tracked changes. These are:

- Part 2 – Articles
- Part 3 – Responsibility for Functions
- Part 4 – Officer Scheme of Delegation (General Principles)
- Part 5 Section 1 – Council Procedure Rules
- Part 6 Section 3 – Financial Procedure Rules
- Part 6 Section 4 – Contract Standing Orders
- Part 6 Section 5 – Officer Employment Rules
- Part 7 Section 1 – Chief Executive Authorisations to Directors

3.2. Part 7 Section 2 (Authorisations to Group Heads) has needed to be updated as a result of the restructure. The Working Party should note that Part 7 Section 2 is approved by the Chief Executive and Directors flowing down from those delegations that Full Council have given to the Chief Executive and Directors under Part 7 Section 1. Therefore, the Group Head delegations at Section 2 are included within this report for the Working Party's information.

3.3. It should be noted by the Working Party that no additional officer delegations are sought in this report. The changes to Part 7 Section 1 (and, consequentially, Section 2) relate solely to directorate reorganisation, reporting lines and job titles.

- 3.4. The Monitoring Officer is requesting that the Working Party considers an amendment to Article 14 of the Constitution (Part 2 – Articles) to enable the Monitoring Officer to in future make any amendments resulting from officer restructuring without the need to refer to the Working Party and Full Council, in order to save both member and officer time and to enable any revisions to be published more promptly following such changes. That proposed amendment is as follows:

“The Monitoring Officer to make consequential amendments to any names, job titles and reporting lines within the Constitution and other constitutional documents resulting from reorganisation or changes in structure/position, and any typographical errors”.

- 4.5 Councillor Coster has requested that the Working Party discusses and considers the reintroduction of the Rescission provisions, and the amendment of the existing Recovery and Referral provisions. Councillor Coster’s correspondence with the Monitoring Officer and previous legal advice on the subject are set out at Appendix 2. The Monitoring Officer has reviewed the legal advice and confirms to the Working Party that the advice remains sound and that the advised amendments should in his view be carefully considered by the Working Party.
- 4.6 Further, the Constitution Working Party is asked to consider any other provisions of the Constitution that in its view require review, and that it asks the Monitoring Officer to bring forward a report to a future meeting of the Working Party setting out his advice on those provisions.

4. CONSULTATION

- 4.1. The Constitution Working Party is the body with authority for reviewing the Constitution and making recommendations for change to the Full Council.

5. OPTIONS / ALTERNATIVES CONSIDERED

- 5.1. The Constitution in its current form is out-of-date and requires updating in line with the tracked changes set out at Appendix 1. Therefore, leaving the document in its current wording is not a viable option.

6. FINANCIAL CONSIDERATIONS

- 6.1. None associated with this report.

7. RISK ASSESSMENT CONSIDERATIONS

- 7.1. An up-to-date and operationally effective Constitution is key to the running of the Council.

8. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

8.1. These are set out within the body of this report.

9. HUMAN RESOURCES IMPACT

9.1. None associated with this report.

10. HEALTH & SAFETY IMPACT

10.1. None associated with this report.

PROPERTY & ESTATES IMPACT

10.2. None associated with this report.

11. EQUALITIES IMPACT ASSESSMENT (EIA)

11.1. None associated with this report.

12. CLIMATE CHANGE & ENVIRONMENTAL IMPACT

12.1. None associated with this report.

CRIME AND DISORDER REDUCTION IMPACT

12.2. None associated with this report.

13. HUMAN RIGHTS IMPACT

13.1. None associated with this report.

14. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

14.1. None associated with this report.

CONTACT OFFICER:

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BACKGROUND DOCUMENTS:

Arun District Council' Constitution - [Arun District Council](#)