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Subject to approval at the next Constitution Working Party meeting

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CONSTITUTION WORKING PARTY

17 August 2020 at 4.30 pm

Present: Councillors Mrs Yeates (Chairman), Mrs Gregory (Vice-Chairman), Bennett, Bower, Cooper, Mrs Haywood, Roberts and Ms Thurston [Substituting for Councillor Mrs Catterson].

Councillors Coster and Gunner were also in attendance at the meeting.

[Note: Councillor Bennett was absent from the meeting during consideration of matters considered in the following minutes – from Minute 9 to 12 (Part) arriving on the discussion on Article 3]; Councillor Cooper – Minute 12 (Part – at Article 9) and returned at Part 3 – Responsibility for Functions – Corporate Support Committee].

9. APOLOGY FOR ABSENCE

An apology for absence had been received from Councillor Mrs Catterson. The Chairman welcomed Councillor Roberts to the meeting as a new Member of the Working Party, replacing Councillor Mrs Madeley.

10. DECLARATIONS OF INTEREST

There were no Declarations of Interest made.

11. MINUTES

The Minutes from the meeting of the Working Party held on 29 June 2020 were approved by the Working Party as a correct and would be signed by the Chairman at the earliest opportunity.

12. DRAFT 2021 CONSTITUTION - PARTS 1 TO 5

The Working Party received a report from the Chief Executive presenting a review that had been undertaken of the Council's Constitution in respect of:

- Part 1 – Summary and Explanation
- Part 2 – Articles of the Constitution
- Part 3 – Responsibility for Functions
- Part 4 – Officer Scheme of Delegation; and
- Part 5 – Meeting Procedure Rules

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The proposed revisions to Part 1 to 5 had been attached as appendices to the report. Parts 1, 2, 4 and 5 showed the revisions to be made as tracked changes to the existing Constitution, so that Members could follow the audit trail of what was being suggested. Part 3 which covered the remit of the new Committee system had had to be created as a new document.

The Working Party was being asked to recommend these revisions to Full Council on 16 September 2020 so that they could be incorporated into a new 2021 Constitution in readiness for the Council to move from operating a Leader with Cabinet form of governance over to a Committee system form of governance with effect from 19 May 2021, as approved by Full Council on 15 January 2020.

The Working Party then worked through each part of the Constitution and made the following comments/decisions – as summarised below:

Part 1 – Summary and Explanation

The redraft reflected legislative requirements and best practice identified from other Councils.

- 1.0 – The Council's Constitution – third paragraph – Article 1 of the Constitution commits the Council to – the word 'more' in the second line to be removed. Leaving this word in suggested that the Council was not open and responsive now. Debate on this saw requests being made for the paragraph to be rewritten to re-word the strikethrough section so that reference that the Council was committed to providing clear leadership in the community in partnership with residents, business and other organisations could be built into the paragraph. This was agreed.
- Agreement was given to remove the strikethrough sections – the second paragraph and the list below it.

The remaining sections of Part 1 were agreed.

Part 2 – Articles of the Constitution

This section reflected issues raised by the Working Party and again the best practice identified by other Councils. The specific issues covered in this part of the review were the role of the Leader of the Council which had been updated in a new Article 6 and moving the list of functions of Full Council into Part 3 and so a new Part 3, Section 2 had been created based on the Basildon model.

- **Article 2 – Members of the Council – Section 2.0 – Elections and Terms of Councillors** [Page 5] – there was concern expressed that as this was governed by legislation it should not be reinstated in the Constitution and was unnecessary. Councillors were reminded of the Constitution’s audience in that members of the public often reviewed and referred to it and so this provided useful information. Some Members of the Working Party were of the view that reference to the date of the next Council election should remain to make it open and clear to the public when the next election would be. Others disagreed stating that by-elections could also be held and so the Constitution would have to be regularly updated – it was necessary to think about the practicalities involved in keeping the Constitution up to date and accurate. Following further debate, it was agreed to delete the wording “*the next Council election will be held in May 2023*”.
- It was pointed out that in the Glossary of Terms in Part 1 – under the definition of Councillor – this was adequately explained.
- **Article 3 – Residents of the Council – Section 1.0 – Residents’ Rights – under (a) Voting and Petitions** [Page 7] - the sentence starting *for a petition to be valid* should be reinstated and not deleted as this was governed by legislation and was a fundamental right of the elector.
- On **c) Information** [Page 7] – Residents have the right to ... the inclusion of Panels in (i) was questioned. Would the public understand what these were and their purpose? It was agreed that they be listed in the Glossary of Terms in Part 1 to include details about their status. It was also agreed that the meetings listed in (i) and (ii) needed to marry up. If confidential papers were mentioned in (i) they should also in (ii). It was also agreed that the Glossary of Terms should include a full explanation on Working Parties and Sub-Committees and that it should be all inclusive.
- On **Participation** – [Page 8] it was agreed that the word Service needed to be added in front of Committees. It was also agreed that Public Question Time should not include Sub-Committees or any Regulatory Committees. There was debate as to whether questions be allowed at the discretion of the Chairman, but this was discounted. Some Councillors felt that PQT should be extended to some Sub-Committees such as the Regeneration Sub-Committees – but it was accepted that at this point the future of Sub-Committees was not yet known. Following a lengthy debate, it was agreed to limit PQT to the main Service Committees and Full Council for now and when Sub-Committees were established within the new structure, this could be addressed later.
- On **Section 2.0 – Residents’ Responsibilities** – [Page 8] who would police this and what penalties would be introduced? Following debate, it was agreed that this needed to remain in the Constitution.
- On **Article 6 – Leader and Deputy Leader of the Council - Casual Vacancies** (Page 17) – to insert the word ‘the first’ in the first sentence after the words *at the meeting that they cease to hold office or at*
- **Article 7 – Committees – Section 1.0 – Committees** – [Page 18] was it necessary to make reference to not establishing a specific scrutiny committee? It was agreed to remove this paragraph as an explanation could be made in the Glossary of Terms.

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- **Section 5.0 – Chairman and Vice-Chairman of Committees** – [Page 18] on the last sentence “No Member of the Council shall be Chairman of more than one Service Committee” – one Member felt that this would be unworkable. This point was not agreed by other Members of the Working Party, but it was agreed to remove it as this was the wrong place to address the issue.
- On **Article 9 – Joint Arrangements – Section 4.0 Delegation to and from other local authorities** - [Page 21] it was agreed to amend the wording in (a) The Council may arrange for the discharge of its functions to another local authority, or in certain circumstances, to the executive or another local authority – to remove reference to *the executive* as Arun would not have an Executive function in the future.
- On **Article 15 – Review and Revision of the Constitution – Section 2.0 – Changes to the Constitution (i)** [Page 36] - the addition of the word ‘approve’ was strongly supported

The remaining sections of Part 2 were then agreed.

Part 3 – Responsibility for Functions

The Working Party was reminded that this part of the Constitution had been completely re-drafted to reflect a Committee system form of governance. The redraft had taken account of existing functions currently covered by the Cabinet of Individual Cabinet Member that were felt needed to be listed as a specific function under the relevant Service Committee. All other functions had been covered under the general purpose of the Service Committee.

References to the Overview Select Committee and the Environment & Leisure and Housing & Customer Services Working Groups had been deleted as the Council had chosen to not include any scrutiny function in the new Committee system other than how decisions may be subject to ‘call in’ principles at Full Council. How this process could work had been set out in Part 5 under a new Council Procedure Rule 18.

It was also emphasised that the draft proposals reflected at Paragraph 5.2 – the functions allocated to the Development Control Committee could be subject to review as a result of the outcomes of the current Planning Service review.

The redraft also set out where the officer team proposed that a Sub-Committee or Panel should no longer continue as its remit had been incorporated into the role of a Service Committee.

- On **3.0 – Terms of Reference – 3.1.6** – [Page 7] reworded slightly to read better. Reference was made to the use of words “make savings and efficiencies” and whether the words “best value” should be used instead as this encompassed all other factors. Following debate, it was agreed to leave the wording as it was.

- On **4.0 – Service Committees – 4.1 – Corporate Policy and Performance Committee** [Page 8]- on the headings listed in ‘Purpose’ concern was expressed over Partnership and Liaison in that this needed to exclude planning related matters dealt with by the Planning Policy Committee – an example provided was Duty to Co-operate which was an expressly defined area of the Council’s business. A request was made to add reference that Partnership and Liaison would exclude where this fell within another Service Committee function. The Working Party was alerted to Page 7 of this section of the Constitution at – Terms of Reference of Committees – at 3.1.3 – which did confirm this and how such a situation could be addressed. Despite this, the request was still requested and agreed.
- On the purpose Climate Change Action Plan [Page 8] – it was not clear from that the Committee would be leading on this Strategy and overseeing any Action Plan. It was felt it should be listed as a specific function of the Committee and renamed ‘Climate Change Strategy’ and given wording similar to that provided for the development and monitoring of the Corporate Plan and Service Delivery Plans. This was agreed.
- On **4.2 Corporate Support Committee** [Page 9] – where it was stated that the Committee would lead on the following plans and strategies – the Asset Management Plan and the Property Investment Strategy – it was felt that these two areas should come under the Economic Committee and not be spread amongst several Committees. A detailed explanation was provided by the Chief Executive who stated that the two areas had been placed under the Corporate Support Committee as it was the Council’s Section 151 Officer who would lead on and be responsible for the expenditure on these issues. It was explained that Group Head roles and responsibilities needed to tie in with the new Committee structure and linked to one main Committee. Following further debate, the Chief Executive was requested to consider the placing of these two activities under the Economic Committee structure. The Chief Executive agreed to review this request with the Section 151 Officer. Another concern was that in determining matters relating to the acquisition or disposal of land and assets where the value exceeded £750,001 under the Property Investment Strategy – this figure was too high and that delegated powers to Officers should be no higher than £50k. It was explained that the figure reflected what had been agreed by the previous administration and that any requests for change would need to be discussed and the Director of Place and Section 151 Officer consulted.
- On **4.2 Corporate Support** [Page 9] – **Specific Functions** - it was felt that functions 6a and 6b were in direct conflict with remit of the Planning Policy Committee. This was a confusing issue and it was accepted that there were elements involving the financial procedure rule side of such monies [the virement of monies – [Corporate Support] with the Development Control Committee and the individual Service Committee being responsible for undertaking the functions – it was felt this needed more thought. The Chief Executive explained that this was based on

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existing Individual Cabinet Member responsibilities for each service area and on existing arrangements. If the Working Party chose to delete this area and it became a Planning Policy function, the Financial Procedure Rules would need to be reviewed. It was the request of one Member to have this actioned. Other Councillors disputed this request stating that under the Planning Policy Committee on [Page 12] this was covered.

- On **Planning Policy Committee** [Page 11] in relation to training – should reference to the Director of Place be the Group Head of Planning? Following debate, it was agreed that the Directors should have responsibility for determining training requirements for all Committees that had this stipulation – this would apply throughout the Constitution.
- Page 11 – **Planning Policy Committee – Purpose** – should reference to the Local Plan be the Development Plan instead.
- Function 11 [Page 12] third bullet point – should this be removed? The Chief Executive explained that this was an existing Cabinet Member function and that the Director of Place would like it to remain. This was agreed by the Working Party.
- On **Residential and Wellbeing Services Committee** [Page 13] under **Purposes** – should Foreshores be moved to the Environment & Neighbourhood Services Committee?

At the request of the Working Party, the Chairman then called a short adjournment.

- On **Economic Committee** - [Page 15] on **Purpose** – It was agreed that the service area “Commercial Activities” should be added under “Commercial Investment”.
- On **the Environment and Neighbourhood Services Committee under Specific Functions** – Adopting Public Space Protection Orders – there was concern as this sat under two different Portfolio areas – it was split between dealing with dog fouling and alcohol consumption in public places and so did this function sit under the correct Committee or should it be split entirely? The Working Party was reminded by the Chief Executive that the structure had been based on Group Head responsibilities. After long discussion, it was agreed that this should be revisited by Officers with the outcome being reported to the Working Party by email to consider.
- On **Economic Committee – Specific Functions** – [Page 16] Functions 9 and 10 – should these be combined?
- Under the **note** on the same Committee discussion then focused on the current two Regeneration Sub-Committees. It was strongly felt that these two Sub-Committees should continue to function but should report directly to the Economic Committee and should not report directly to Full Council. Following further discussion, it was the view that additional Regeneration Sub-Committees should be established to be called the Arundel Regeneration Sub-Committee and a Rural Regeneration Sub-Committee. It was the Working Party’s view that they should be disbanded as they

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currently stood but re-established as Sub-Committees of the Economic Committee when the structure was in place.

The Chairman then proposed that the remaining items on the agenda be adjourned to a Special Meeting of the Working Party which would take place on 24 August at 2.00 pm.

Following some debate, the Working Party

RESOLVED

That the remaining items on the agenda – Regulatory Committees onwards [Page 18] be deferred to a Special Meeting of the Working Party to be held on 24 August 2020 at 2.00 pm.

(The meeting concluded at 8.15 pm)

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