

ARUN DISTRICT COUNCIL

REPORT TO CONSTITUTION WORKING PARTY ON 12 OCTOBER 2020

SUBJECT:	Draft 2021 Constitution – Parts 6, 7, 8 and 9
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REPORT AUTHOR:	Nigel Lynn, Chief Executive
DATE:	12 October 2020
EXTN:	01903 737600

EXECUTIVE SUMMARY:

This report provides the next instalment of the draft 2021 Constitution for review by the Working Party covering:

- Part 6 – Other Procedure Rules
 - Section 1 (Access to Information Procedure Rules)
 - Section 2 (Budget and Policy Framework Procedure Rules)
 - Section 5 (Officer Employment Procedure Rules)
- Part 8 – Codes and Protocols
 - Section 3 (Protocol on Member and Officer Relations)
 - Section 4 (Planning Protocol)
 - Section 5 (Petitions Scheme)
 - Section 6 (Filming and Photographic Protocol)

Part 6, Section 3 (Financial Procedure Rules) and Section 4 (Purchasing, Procurement, Contracts and Disposals Rules) and Part 8 section 4 (Planning Protocol) are also presented elsewhere on this agenda.

The Working Party is asked to recommend these revisions to Full Council on 11 November 2020 to be incorporated into the new 2021 Constitution.

The Working Party is asked to note that Part 6. Section 1 (Member Code of Conduct) is awaiting consideration of the revised LGA Model Code which is expected to be agreed by the Local Government Association in October 2020 and then to Standards committee in December 2020. Further, Part 9 (Members Allowance Scheme) is to be considered by Full Council following the Independent Remuneration Panel's recommendations to the Audit and Governance Committee on 19 November 2020.

RECOMMENDATIONS:

It is recommended to the Full Council that:

- (1) The proposed revisions to be incorporated into the new 2021 Constitution at Part 6, Section 1 [Access to Information Procedure Rules] as set out at Appendix 1, as attached to the minutes, be approved;

- (2) The proposed revisions to be incorporated into the new 2021 Constitution at Part 6, Section 2 [Budget and Policy Framework Procedure Rules] as set out at Appendix 2, as attached to the minutes, be approved;
- (3) The proposed revisions to be incorporated into the new 2021 Constitution at Part 6, Section 5 [Officer Employment Procedure Rules] as set out at Appendix 3, as attached to the minutes, be approved;
- (4) The proposed revisions to be incorporated into the new 2021 Constitution at Part 8, Section 3 [Protocol on Member and Officer Relations] as set out at Appendix 4, as attached to the minutes, be approved;
- (5) The proposed revisions to be incorporated into the new 2021 Constitution at Part 8, Section 5 [Petitions Scheme] as set out in Appendix 5, as attached to the minutes, be approved;
- (6) The proposed revisions to be incorporated into the new 2021 Constitution at Part 8, Section 6 [Filming and Photographic Protocol] as set out in Appendix 6, as attached to the minutes, be approved; and
- (7) To Note that Part 9 (Members Allowance Scheme) is to be revised following a report by the Independent Review Panel and that Part 8 section 1 (Member Code of Conduct) is to be considered by the Standards Committee having regard to the outcome of the LGA on whether or not to adopt a new Code of Conduct for Members

1.0 BACKGROUND

- 1.1 As the Working Party was reminded at its last meeting, the Council made a binding resolution on 15 January 2020 (Minute 388 refers) to change its form of governance to a Committee system effective from the Annual Council Meeting on 19 May 2021. This Working Party was convened to work through the necessary changes to the Council's Constitution and report back to the Full Council, with the aim of this work being concluded by January 2021.
- 1.2 The Working Party considered Parts 1 to 5 at its meeting on 17 August 2020 (and reconvened meeting on 24 August 2020) and the remaining sections [except Part 9 (Members Allowances) and Part 8 (section 1 and 2 Member Code of Conduct)] for review are being presented to this meeting.

2.0 PROPOSALS

- 2.1 The proposed revisions to Parts 6 and 8 are attached as appendices to this report. Revisions made are either shown through commentary or tracked changes so that Members can follow the audit trail of what is being suggested. Where the track changes are substantial the track version and the clean version are attached. Where the track changes are not substantial only the tracked version is attached. Issues to flag with the Working Party are:
- 2.2 **Part 6 (Other Procedure Rules)** – The redrafts of these three sections reflect legislative requirements and best practice identified from other councils reviewed. Specific issues raised by the Working Party were:

Section	Specific issues to cover in review	Update
1 – Decision Notices	Deleted as no longer applicable	Done
2 – Scrutiny	Deleted as no longer applicable	Done
3 – Budget and Policy Framework	Timing of consultation of service committees on budget making	Now Section 2 – attached as Appendix 2
4 – Access to Information Rules		Now Section 1 – attached as Appendix 1
5 – Financial Rules	Financial thresholds for officers	Now Section 3 - see separate report on the agenda
6 – Purchasing, Procurement, Contracts and Disposals Rules	To reflect changes agreed by Full Council on 15.July ..	Now Section 4 - see separate report on the agenda
7 – Officer Employment Rules	Consequential changes	Now Section 5 – attached as Appendix 3
8 – Corporate Complaints Procedure		Proposing removal from the Constitution as this is a policy not a procedure and no other model included this within their Constitution. The policy will continue to be published to the Council’s website on the Complaints page and on the Publication Scheme

2.3 **Part 8 (Codes and Protocols)** – The redrafts of these four sections reflect legislative requirements and best practice identified from other councils reviewed. Specific issues raised by the Working Party were:

Section	Specific issues to cover in review	Update
1 & 2 - Members’ Code of Conduct	Principles of the Code at Section 1 and Code of Conduct at Section 2 to be merged into Section 1	New Section 1 to be added once the outcome of the review by the Standards Committee is concluded on 24 September 2020 ¹
	Adding new section for Employee Code of Conduct	New Section 2 to be added to final Constitution of the Code approved by Full Council on 13.11.19
3 – Protocol on Member and Officer Relations		Now Section 3 – attached as Appendix 4
4 – Preparation Meetings of the Cabinet	Deleted as no longer applicable	Done
5 – Call-in of Prosecutions	Already deleted as agreed by Full Council on 09.01.19	N/A
6 – Planning Local Code of Conduct		Now Section 4 – separate agenda item.

¹ At the meeting on 24 September the Committee was advised that the LGA (Local Government Association) had not yet finalised the New Model Member Code of Conduct. And it is anticipated that the New Code would be approved at the LGA’s Annual General Meeting due to be held in October. The Standards Committee therefore RESOLVED That consideration of the New Model Member Code of Conduct be deferred to the meeting on 3 December 2020.

7 – Petitions	As there is no longer a statutory requirement to have a scheme and usage over the last three years has been minimal – should this be continued? If so Minor changes to reflect removal of Cabinet Member responsibility have been made.	Now Section 5 – attached as Appendix 5
7 – Protocol on Filming and Recording of Council Meetings		Now Section 6 – proposed new name as covers filming and photography. Attached as Appendix 6

3.0 OPTIONS

- a) To approve the recommendations to Full Council, as set out in the report
- b) To not approve the recommendations
- c) To make alternative proposals for consideration by Full Council

4.0 CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		✓
Relevant District Ward Councillors		✓
Other groups/persons (please specify) <ul style="list-style-type: none"> • Chairman and Vice-Chairman of the Working Party • Senior Management Team 	✓	
5.0 ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail below)	YES	NO
Financial	✓	
Legal	✓	
Human Rights/Equality Impact Assessment		✓
Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land		✓
Technology		✓
Other (please explain)		✓

6.0 IMPLICATIONS:

The draft documents have been reviewed by the Section 151 Officer, Financial Services Manager, Human Resources Manager and Legal Services Team to ensure they meet statutory and operational requirements.

The Council must approve a new Constitution before the Annual Council Meeting on 19 May 2021 as this is the “relevant change time” (ie the effective date) for moving to a Committee system form of governance defined in the Council’s statutory resolution of 15 January 2020. Whilst the legislation allowed the Council to delay the “relevant change time” for introducing its new arrangements, there is no further provision to delay this once the date has been resolved. In

addition, the Council cannot make a further change to its governance arrangements for a period of 5 years from the date of its statutory resolution, ie not before 15 January 2025, unless this decision is approved by a referendum.

These provisions are confirmed in Sections 9L and 9KC of the Local Government Act 2000 (as amended by the Localism Act 2011)

7.0 REASON FOR THE DECISION:

To prepare a new 2021 Constitution to reflect the Council's decision to move to a Committee system form of governance with effect from 19 May 2021.

8.0 BACKGROUND PAPERS:

Arun's Constitution

<https://www.arun.gov.uk/constitution>

Full Council Agenda and Minutes – 15 January 2020

<https://democracy.arun.gov.uk/ieListDocuments.aspx?CId=141&MId=771&Ver=4>

Full Council Agenda and Minutes – 15 July 2020

<https://democracy.arun.gov.uk/ieListDocuments.aspx?CId=141&MId=980&Ver=4>

Full Council Agenda and Minutes – 16 September 2020

Local Government Act 2000, as amended

<https://www.legislation.gov.uk/ukpga/2000/22/contents>