



Governance and Audit
Committee

22 April 2025

Subject: Constitution amendments – Articles and Committees

Report by:

Monitoring Officer

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Purpose / Summary:

The purpose of this report is to provide further detail to the Committee regarding the second stage of the Constitution review and to seek amendments are made to the Council's articles and committees in accordance with the legal advice received, to ensure the Constitution is up to date with legislative requirements and remains fit for purpose.

The Governance and Audit Committee are asked to RECOMMEND the report to Council.

RECOMMENDATION(S):

The Governance and Audit Committee are asked to:

- (1) Receive and note the position in relation to the Constitutional amendments relating to articles and Committees.

(2) Accept the Constitution amendments as outlined in Appendix 1 and recommend their approval to the full Council meeting on 12 May 2025.

IMPLICATIONS

Legal:

The Council is required by law to prepare, and keep up to date, the Constitution (Section 9P Local Government Act 2000 as amended).

It is not uncommon for authorities to update Constitutions in a piecemeal fashion over time due to the length and complexity of Constitutions. Therefore, an external “health check” Constitution review has been carried out by expert governance lawyers. The document produced is legally privileged and does not form part of this report, however committee members have had sight of the full legal advice beforehand and received a briefing of this advice from the Monitoring Officer on 13th January 2025 .

The external legal advisors have undertaken many constitutional reviews for local authority clients.

Financial :

There are no financial implications associated with this report

Staffing : There are no staffing implications arising from this report. The work is primarily conducted by the Monitoring Officer, Deputy Monitoring Officer with the senior officers on the Management team being regularly updated.

Equality and Diversity including Human Rights : It is imperative that when dealing with all governance issues, people are treated equally and fairly. The Monitoring Officer, Deputy Monitoring Officer and wider team are aware of Equality legislation and ensure that equality and diversity is considered and applied as appropriate at all times.

Data Protection Implications : There are no direct data protection implications associated with this report. Good governance should ensure that the GDPR 2016 and associated regulations and guidance are complied with, and the Monitoring Officer and Deputy Monitoring Officer are aware of the need to adhere to these requirements. The Assistant Data Protection Officer reports directly to the Monitoring Officer and works closely as required with the Deputy Monitoring Officer.

Climate Related Risks and Opportunities: The organisation is aware of its responsibilities surrounding climate change, and much of the work referred to within this report is conducted over email with limited printing of paper documents, and where possible meetings and discussions are held virtually using the MS teams function, thereby saving in fuel costs and emissions.

Section 17 Crime and Disorder Considerations: Whilst there are no direct implications, the work carried out by the Monitoring Officer and wider teams contributes to cohesion and informal resolutions within communities, and therefore promotes community safety. The Monitoring Officer and Deputy Monitoring Officer are able to provide a police contact to anyone who suspects or alleges criminality.

Health Implications: There are no health implications arising from this Report.

Title and Location of any Background Papers used in the preparation of this report :

<https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CId=132&MId=3617&Ver=4>

Risk Assessment :

Good governance and up to date practices and procedures for decision making ensure the organisation is legally compliant, whilst protecting against ultra vires decisions. Further, good governance is essential for ensuring value for money and protecting against reputational damage, and financial loss. Ensuring good governance at all levels protects the organisation from external claims and challenges.

“Failure to comply with legislation” and “inability for the Council’s governance to support quality decision making” are strategic risks for the organisation and these risks are considered regularly by the Management Team prior to consideration at the Governance and Audit committee.

The Constitution is Council’s key document for governance and powers, and compliance with the Constitution is essential to keep the organisation safe and legally compliant.

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

X

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

1 **Background**

- 1.1 The Council's Constitution is the key governance document for the organisation, and sets out the Council's functions, how the Council operates, the terms of reference for the Committees, the Articles, the Codes and Protocols, the delegated functions of officers and various procedure rules, including the Contract Procedure Rules. Members should note that this review did not include consideration of the Contract Procedure Rules as this is a separate, discrete piece of work that required finance and procurement involvement and direction, particularly in light of the changes from the Procurement Act 2023. The work was completed and reported to both Governance and Audit Committee and Council in January 2025
- 1.2 The Constitution is a legal document and often referred to in governance circles as a "living" document as the legal requirements are often subject to change, the membership of Councils and therefore political balance changes, Codes and Protocols are updates over time, and officer delegations may change over time. This results in Constitutions being amended piecemeal over time which can result in inaccuracies, duplications or omissions. Therefore, it is good practice to seek a health check review which can provide holistic consideration of the document itself, and ensure it is legally compliant and in line with up to date practices.
- 1.3 Members of the Governance and Audit Committee have previously received a report on the work which has been carried out to ensure the Constitution is a legally compliant and fit for purpose document, including a briefing session being provided in January 2025. This report concentrates on the second stage of that process which considers some amendments to the Council's Articles and Committee numbers.
- 1.4 As any changes to Committee numbers are considered in any event at the Council's AGM and as previously indicated to the Committee, it was prudent to wait until this point to consider these amendments due to the close proximity of the AGM in May.
- 1.5 Members can be assured that the external health check review work does find the Constitution to be a "largely legally compliant" document, however it can be updated and improved in some areas and that is what this report aims to do.

3. **The Amendments**

- 3.1 The required amendments seeking approval are detailed at Appendix 1. These amendments are either good practice or legally required, and were highlighted in the legal advice as amendments that needed to be made. It is recommended they are approved and recommended for approval at the full Council meeting in May.
- 3.2 In relation to the Council's Standards Committee, CIPFA formally advise against placing this committee within the audit committee sphere,

therefore it is outlined in Appendix 1 that the Standards committee is kept separate from other committees and becomes a full Committee in its own right. This results in an amendment to the Governance Audit Committee's Terms of Reference and removes the need for the Standards Committee to have its own Article.

- 3.3 The Council's licensing functions under the Licensing Act 2003 are an entirely separate regime and must be dealt with distinctly from the Council's other licensing and regulatory matters, and it is therefore advised this fact is made clearer by creating a separate committee article which can be seen at Appendix 1a, as opposed to the current arrangement where is listed with all the other committees.
- 3.4 Article 6 of the Constitution should be amended to "appoint" a Leader as opposed to "elect". The reason for this is that in a committee system form of governance, the Council appoints its Leader and this role is acknowledged to be held by the leader of the largest political group. The appointed Leader through the Constitution is also granted Chairmanships of the Corporate Policy and Resources Committee and the Chief Officer Employment Committee (appointed at the annual council meeting unless he/she chooses to appoint a nominee).
- 3.5 The Chief Officer Employment Committee should be increased to meet the requirements for the Joint National Council (JNC) process for chief officer disciplinary matters. This requires that the Committee would need to form an Investigation and Disciplinary sub committee, and also be able to form a separate appeals panel if needed. To ensure quoracy, it is suggested the numbers on this Committee are therefore increased from 8 to 9. The Officer Employment Procedure Rules have also been amended to comply with the JNC Conditions of Service handbook (previously the rules only referred to an Independent Panel and the amendment makes provision for an Investigation and Disciplinary sub committee and an Appeals Panel).
- 3.6 Article 10 considers Joint Committee Arrangements and currently advises that: -

"Details of any joint arrangements, including any delegations to joint committees, will be found in the Council's Responsibility for Functions in Part IV of this Constitution"

Therefore, reference should be made in Part IV to the District Joint Committee for devolution and the CLJSPC, these references are currently absent.

4 Next steps

- 4.1 It is recommended that the changes outlined at Appendix 1 are accepted and recommended to the AGM in May for approval.

Appendix 1

1.Changes arising from Para 3.2.

- Article 9 to be deleted in its entirety [Microsoft Word - Part II Articles](#)
- the Committee be added to the list of Committees in Article 8 under 8.2
- the Governance and Audit Committees Terms of Reference (part IV page 9 be amended as follows: -

“(d) Ethics and standards

1. Promote and maintain high standards of conduct by Councillors and co-opted members”

Be removed.

- The word Sub be removed from the Standards Committee’s title on its term of reference page

2.Changes arising from Para 3.3

- A new article be included as attached at Appendix 1 a (which will become article 9)
The Licensing Committee and the below reference be deleted from the list of Committees in Article 8 under 8.2 Article [Microsoft Word - Part II Articles](#)

“Hearings about licensing matters will be considered by the Licensing Sub-Committee for liquor licensing or gambling (Licensing Act 2003 and Gambling Act 2005) and by the Regulatory Sub-Committee for all other matters”

This is now expressed in the newly created Article.

3. Changes arising from Para 3.4

- Article 6 be amended as shown at Appendix 1 b

4. Changes arising from Para 3.5

- The Chief Officer Committee Procedure Rules be amended as shown at Appendix 1c.

5. Changes arising from Para 3.6

- New Pages be created after Page 23 in Part IV Responsibility for Functions as shown in Appendix 1d .
- The following be added to the Governance and Audit Terms of Reference.

“To approve any changes to the District Joint Committee which are deemed more than “house-keeping” – House keeping amendments can be made by the MO following consultation with the Chairman of the Committee.”

(Note this matter was previously agreed by Council in 2024/25.

6. General Amendments then arising

- The changes to the Committee’s above will result in a new diagram being developed at Article 8 page 20 to show the District Joint Committee, that the Standards Committee is a full Committee and to make it clear that the JSCC is not subject to the Local Government Act 1972 Article [Microsoft Word - Part II Articles](#)
- Indexes and Contents Pages will also be amended.