



## AUDIT & GOVERNANCE COMMITTEE

Monday, 11 December 2023

<b>Subject</b>	Proposed Changes to East Suffolk Council's Constitution
<b>Supporting Councillor</b>	Councillor Dr Anthony Specca Chair of the Council Chair of the Constitution Review Working Group
<b>Report Author(s)</b>	Chris Bing Head of Legal and Democratic Services and Monitoring Officer <a href="mailto:chris.bing@eastsoffolk.gov.uk">chris.bing@eastsoffolk.gov.uk</a>
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Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is <b>NOT</b> in the public interest to disclose the exempt information.	Not applicable
<b>Wards Affected:</b>	All Wards

## Purpose and high-level overview

### **Purpose of Report:**

This report summarises the work, and interim proposals of, the cross-party Constitution Review Working Group (CRWG), since its first meeting on 7 July 2023. The CRWG was convened by the Chair of Council to carry out a fundamental review of the Constitution to ensure East Suffolk Council's (ESC's) Constitution is complete, accurate, up to date, clear, lawful, fit for purpose and democratically sound.

This report sets out a series of proposed changes to ESC's Constitution which Audit and Governance Committee is asked to consider and recommend to Full Council to adopt, at its meeting on 24 January 2024.

### **Options:**

To recommend to Full Council that the changes to ESC's Constitution, proposed by the CRWG in this report, be adopted.

To not recommend to Full Council that the changes to ESC's Constitution, proposed by the CRWG in this report, be adopted.

### **Recommendation/s:**

That Audit and Governance Committee recommends to Full Council that the substantive changes to East Suffolk Council's (ESC's) Constitution proposed by the Constitution Review Working Group (CRWG), as summarised in this report and as shown at Appendix A Appendix B and Appendix C of this report, be adopted as East Suffolk Council's Constitution pending the CRWG's completion of its full review of the Constitution.

## Corporate Impact Assessment

### **Governance:**

The Local Government Act 2000 (the Act) established executive arrangements. ESC has a Leader and Cabinet model of governance. Section 37 of the Act requires the Council to prepare, keep up to date and publicise its Constitution. Section 9P of the Act requires that a Constitution must contain Standing Orders and Procedure Rules, Members' Code of Conduct, such information as the Secretary of State may direct and such other information as the Council considers appropriate. The Local Government Act 2000 (Constitutions) (England) Direction 2000 also lists matters to be included in a Constitution.

Changing the Constitution, other than minor amendments/corrections, is a function reserved to Full Council.

### **ESC policies and strategies that directly apply to the proposal:**

Our Direction 2028

### **Environmental:**

There are no direct impacts from the review of the Constitution.

**Equalities and Diversity:**

A clear and concise Constitution written in plain English is accessible to a wide readership which supports inclusion.

**Financial:**

There are no direct impacts from the review of the Constitution.

**Human Resources:**

There are no direct impacts from the review of the Constitution.

**ICT:**

There are no direct impacts from the review of the Constitution.

**Legal:**

Council decisions must be taken in a procedurally complaint manner, pursuant to the relevant requirements of the Constitution, to be lawful and capable of being successfully defended in the event of challenge.

**Risk:**

Decisions which are procedurally flawed, or ultra vires, are high risk and vulnerable to legal challenge.

<b>External Consultees:</b>	None
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## Strategic Plan Priorities

Select the priorities of the <a href="#">Strategic Plan</a> which are supported by this proposal: <i>(Select only one primary and as many secondary as appropriate)</i>		Primary priority	Secondary priorities
<b>T01</b>	<b>Growing our Economy</b>		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
<b>T02</b>	<b>Enabling our Communities</b>		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input type="checkbox"/>	<input type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
<b>T03</b>	<b>Maintaining Financial Sustainability</b>		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>

<b>T04</b>	<b>Delivering Digital Transformation</b>		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
<b>T05</b>	<b>Caring for our Environment</b>		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>
<b>XXX</b>	<b>Governance</b>		
XXX	How ESC governs itself as an authority	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>How does this proposal support the priorities selected?</b>			
An accessible, fit for purpose and up to date Constitution supports good governance.			

## Background and Justification for Recommendation

<b>1</b>	<b>Background facts</b>
1.1	At the Annual Meeting of Full Council on 24 May 2023, Councillor Dr Anthony Specca, in his inaugural address as Chair of the Council, committed to undertake a review of East Suffolk Council's (ESC's) Constitution to ensure that the principles of democracy and fairness underpinned its every letter.
1.2	ESC's Constitution was drafted and adopted in 2019, as part of the creation of the new Council. Since its adoption, the Constitution has been subject to limited amendment. Amendments which have been made over the last four and a half years have principally been made by the Monitoring Officer under their delegated authority to make minor amendments to the Constitution. Therefore, a full review of the Constitution has been appropriate and necessary to ensure the Constitution is complete, accurate, up to date, clear, lawful, fit for purpose and democratically sound. The accessibility of the Constitution, with respect to its size, user friendliness and organisation, has also been considered.
1.3	A Constitution Review Working Group (CRWG) was convened and chaired by the Chair of Council. The CRWG first met on 7 July 2023 and has subsequently met at regular intervals to review the wording and operation of different sections of the Constitution. The CRWG is politically balanced with three GLI group members (Councillor Dr Specca as the Chair of Council, Councillor Fisher as the Vice Chair of Council and Councillor Bennett), a Conservative member (Councillor Starling) and a Labour member (Councillor Byatt). The CRWG is supported in achieving its objectives by the Chief Executive, the Strategic Director for Corporate Services, and the Monitoring Officer. The CRWG has been greatly assisted in reviewing the Scrutiny Procedure rules by the Chair of Scrutiny Committee, Councillor Deacon. The CRWG has also been grateful to Councillor Topping and Councillor Patience for substituting for Councillor Bennett and Councillor Byatt when required.

1.4	Changing the Constitution is a function reserved to Full Council, except for minor amendments and corrections which the Monitoring Officer has the delegated authority to make. The current Constitution requires that substantive changes to the Constitution be considered by the Audit and Governance Committee, which will recommend changes to Full Council. This report proposes that, moving forward, the CRWG be made a standing working group of East Suffolk Council to review the operation of the Constitution and makes future recommendations as to substantive changes to the Constitution direct to Full Council.
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## 2 Current position

2.1	<p>The wholesale review of the Constitution is a significant undertaking which is progressing well. By December 2023, the CRWG had completed the review, and revision, of:</p> <ul style="list-style-type: none"> <li>• Functions and Responsibilities (save for the Officer Delegation Scheme);</li> <li>• Council Procedure Rules;</li> <li>• Cabinet Procedure Rules;</li> <li>• Committee Procedure Rules; and</li> <li>• Overview and Scrutiny Procedure Rules</li> </ul>
2.2	<p>The approach taken by the CRWG in reviewing each section of the Constitution has been to consider and apply six questions:</p> <ul style="list-style-type: none"> <li>• What can come out of the Constitution?</li> <li>• Is it democratically sound?</li> <li>• Is there anything missing?</li> <li>• Is there anything confusing?</li> <li>• Is it up to date?</li> <li>• Is it legally compliant?</li> </ul>
2.3	<p>The substantive changes proposed and incorporated in the drafting of sections of the new Constitution so far, after CRWG's in depth review of the corresponding sections in the existing Constitution include, in summary:</p> <p><u>Functions and Responsibilities</u></p> <ul style="list-style-type: none"> <li>• Scrutiny Committee to be renamed Overview and Scrutiny Committee.</li> <li>• The Chair of Overview and Scrutiny Committee to be a member of an opposition group.</li> <li>• Appointments Committee to be convened to appoint the Chief Executive, Strategic Directors and statutory officer posts (Chief Finance Officer and Monitoring Officer) but not Heads of Service.</li> <li>• Create a standing Constitution Review Working Group to regularly monitor and review the Constitution and make recommendations on substantive changes to the Constitution directly to Full Council moving forward, rather than via Audit and Governance Committee.</li> <li>• Moving the Terms of Reference for committees and councillor role descriptions to Appendices.</li> </ul>

### Council Procedure Rules

- The Chair of Council and the Monitoring will together determine whether questions and motions on notice can be accepted.
- A submitted motion which is accepted will automatically be debated by Full Council, removing the current constitutional requirement for the group leaders to meet in advance of Full Council to discuss whether there is a consensus view as to whether the accepted motion should be debated at Full Council and removing the constitutional requirement that Full Council vote as to whether an accepted motion should be debated that evening.
- Each motion on notice will have a 45 minutes time limit. There will be 90 minutes in total allocated for the debate of motions. If motions are submitted by all groups, a motion will first be considered from the administration, then the second largest group, then the third largest group.
- The procedural distinction between asking a question and participating in debate will be removed but members will only be able to speak once per item, at the discretion of the Chair.
- The criteria a member of the public must satisfy to be eligible to ask a question has been clarified.
- At the Annual Full Council meeting the first item of business on the agenda will be to elect the new Chair of Council.
- Quorum for Full Council will be a third (19 councillors), rather than a quarter (14 councillors).
- The trigger for a recorded vote will be half of quorum rounded up.

### Cabinet Procedure Rules

- As with Full Council, the procedural distinction between asking a question and participating in debate to be removed but members will only be able to speak once per item, at the discretion of the Chair.
- It was agreed that Cabinet Members must be present in the room to participate and vote, but visiting members could attend remotely.

### Committee Procedure Rules

- Arrangements for the organising of Task Groups has been clarified.
- The trigger for a recorded vote will be half of quorum rounded up.

### Scrutiny Procedure Rules

- The Chair of Council and Chair of Overview and Scrutiny Committee must both agree any exemptions to Call-In of Executive decisions.
- It will be made clear that Overview and Scrutiny Committee determines its own work programme.

2.4

In addition to these substantive procedural/technical changes, the wording and formatting of the new Constitution will be made as clear, concise, and accessible as possible. To this end, guidance notes and flow charts will be removed from the Constitution and moved to a Member's Handbook. And any information which is not considered essential to be included in the body of the Constitution will be

	moved to appendices (for example, the full Terms of Reference for committees and Councillor role descriptions).
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### 3 How to address current situation

3.1	The CRWG wishes to invite Audit and Governance Committee to consider the work of the CRWG to date and to recommend to Full Council, as an interim step, that those sections of the new Constitution, of which the drafting has now been completed by the CRWG, be approved (please see Appendix A). This would enable some important changes to the way the Council operates to be introduced early in the New Year, prior to the completion of the drafting of the entire new East Suffolk Council Constitution in Spring 2024.
3.2	In this interim period, ESC's Constitution will comprise the new Constitution (Appendix A) and the previous Constitution with those parts of the previous Constitution which have been superseded by the new Constitution struck through (Appendix B), so that there is certainty. The Appendices to the Constitution are at Appendix C.
3.3	It is anticipated that the CRWG will have completed its full review of the existing Constitution, and the drafting of East Suffolk Council's complete new Constitution, by ESC's Annual Meeting in May 2024.

### 4 Reason/s for recommendation

4.1	A clear, streamlined, up to date, democratically sound and accessible Constitution supports good governance.
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## Appendices

### Appendices:

<b>Appendix A</b>	New Constitution as of November 2023 (which together with Appendix B and Appendix C will form East Suffolk Council's Constitution for an interim period).
<b>Appendix B</b>	Existing Constitution with parts which have been replaced by Appendix A scored out (which together with Appendix A and Appendix C will form East Suffolk Council's Constitution for an interim period).
<b>Appendix C</b>	Appendices to the Constitution

### Background reference papers:

None