

CONSTITUTION REFRESH 2023

1. RECOMMENDATIONS

- 1.1 That the Cabinet endorses and recommends to Full Council that:-
- (a) the refreshed Constitution for New Forest District Council ([link](#)), be adopted for implementation with effect from Friday 5 May 2023; and
 - (b) authority be delegated to the Monitoring Officer, to make further minor editing changes, corrections and updates to the document prior to publication.
- 1.2 That the Cabinet authorise the Delegation of Executive functions as set out in the proposed Constitution.
- 1.3 That the Council authorise the Delegation of Non-Executive functions as set out in the proposed Constitution.

2. INTRODUCTION AND BACKGROUND DETAIL

- 2.1 At the Council meeting of 11 July 2022, the Council noted the significant programme of work underway to deliver the changes arising from the Electoral Review of the Council, including the introduction of new election legislation, the 2023 Elections and supporting governance arrangements.
- 2.2 One theme within the governance strand of the work programme is the Council Constitution. This report sets out the steps taken to refresh the Constitution for New Forest District Council and summarises the key changes.
- 2.3 As noted in the report to Council in July 2022, the review of the Constitution, alongside the other governance projects, is being led by the Council's three Statutory Officers, the Chief Executive, Monitoring Officer and Section 151 Officer, supported by the Service Manager for Democratic and Support Services.

3. SUMMARY OF PROPOSALS

- 3.1 The Constitution refresh delivers an updated format, based on the key components and all the necessary information required of a local authority Constitution. It contains the following seven parts:-
- 1) Contents, Summary and Explanation
 - 2) Responsibility for Functions
 - 3) Role Descriptions
 - 4) Procedure Rules
 - 5) Codes of Conduct
 - 6) Members' Allowances
 - 7) Protocols
- 3.2 The purpose of the Constitution is to ensure there is a clear governance framework and effective and accountable decision making; clarity as to the procedures to be followed in respect of meetings and decisions; provisions to enable Members and the public to engage and hold decision makers to account; and to contain rules and procedures relating to the financial management of the Council, and that standards are

promoted and maintained. There are numerous legal requirements as to procedure rules and provisions, which must be included. The proposed Constitution complies with these requirements.

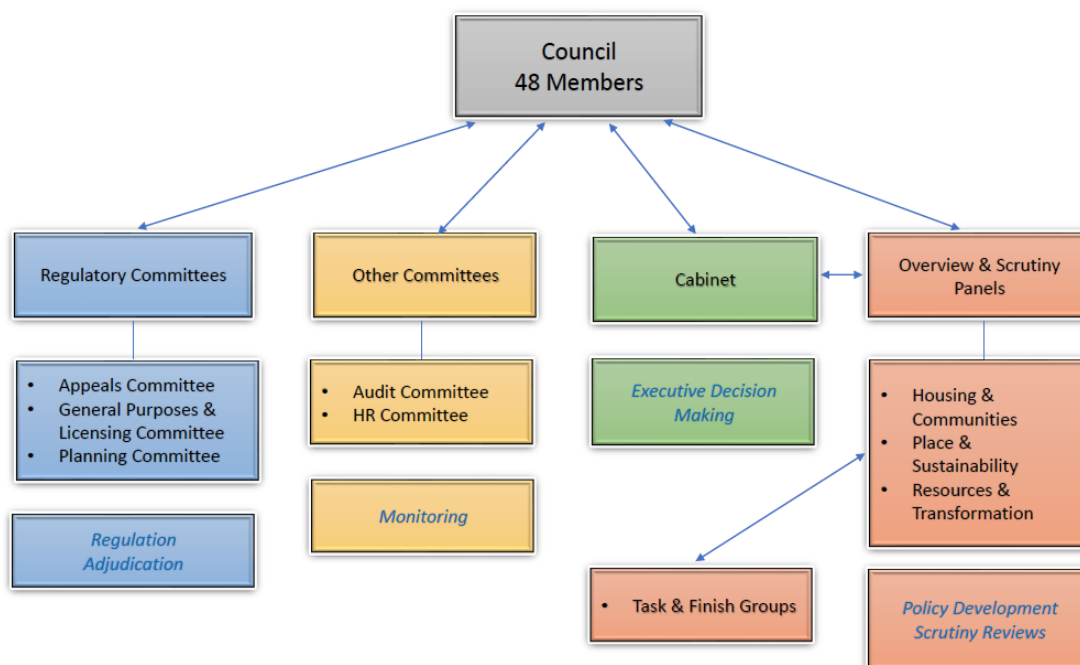
- 3.3 It should be noted that the current Constitution and the procedures within it have served the Council very effectively for a number of years. However, with a new Council following the recent Electoral Review, a number of areas of the Constitution have been updated to provide a platform for the new Council to move forward from May 2023. Further review of a more fundamental nature can be taken forward by the new Council, should it wish to.

4. KEY CHANGES

- 4.1 The following section of the report details the proposed changes to the Constitution throughout the seven parts, including the rationale where change is recommended.

4.2 Contents, Summary and Explanation

- 4.2.1 This section brings together the current introductory chapters of the Constitution into one rationalised and user-friendly section, providing the key information for how the Council operates and is structured, the rights of citizens of the District and a basic description of the Council's political structures.
- 4.2.2 A new infographic structure is presented in this section, to provide councillors, officers and the public with a visual representation of the Council's main political structure, and can be seen below:-



4.3 **Responsibility for Functions**

4.3.1 **General**

The Constitution establishes a governance structure broadly consistent with that of the current Council. The Leader/Cabinet model of governance is retained, alongside the current committees namely the Appeals Committee; Audit Committee; General Purposes and Licensing Committee; HR Committee; and Planning Committee.

In reflection of the reduction of the Council size from 60 to 48 and the respective workloads of councillors, the number of seats on the Appeals Committee, General Purposes and Licensing Committee and Planning Committee are proposed to be 12, which is one quarter of the Full Council.

Benchmarking work and advice from the Local Government Association Planning Advisory Service (PAS) indicates that for decision making purposes, a smaller committee for planning functions is more effective. Whilst some committees are as small as five members, PAS advise that a maximum of 12 members is reasonable depending on the political balance, but that the optimum number is in the region of nine. Reflecting the size of the District and achieving the representation of one quarter of the Full Council, it is proposed that 12 is an appropriate size which the new Council can keep under review. For consistency, the remaining regularly committees are also proposed to have 12 seats.

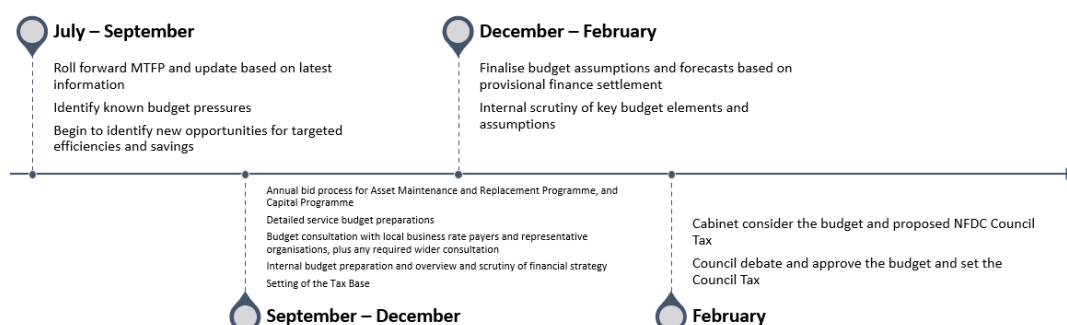
Three new Overview and Scrutiny Panels are proposed, with details contained at paragraph 4.3.5 below.

Minor changes proposed to specific functions are outlined in detail in the sections below.

4.3.2 **Council**

A Key Policy Framework is included, which provides the Council with clarity on the list of plans and strategies which are relevant to the Council's functions and are either required by law to be determined by the Council, or the Council has decided by local choice that it should be determined by the Council. The framework is organised into user friendly themes and will be updated by the new Council as it determines further strategic policies.

A document outlining how the Council undertakes its budget setting process is included, providing a clear and concise summary for ease of understanding. A summary infographic is included below which is in compliance with the Council's statutory obligations.



4.3.3 Cabinet

Terms of reference are included, to bring greater clarity to the general functions of the Council's Cabinet. Whilst the Council's current Constitution provides for the appropriate information on the discharge of executive functions, these terms of reference summarise for ease of understanding, the general work of the Cabinet, including making key decisions, recommending to Council as part of the Budget and Key Policy Framework, considering and responding to recommendations from Overview and Scrutiny and liaising with partners.

4.3.4 Committees

It is proposed that the responsibility for determining Tree Preservation Order (TPO) matters is moved from the Appeals Committee to the Planning Committee. Benchmarking against a range of local authorities indicates that the Council is currently out of step with standard practice in this area, whereby appeals against TPOs are dealt with as part of reporting to the committee responsible for planning matters. This would include the power to confirm, modify or not confirm TPOs.

4.3.5 Overview and Scrutiny

It is proposed that the number of Overview and Scrutiny Panels is reduced from four to three, aligned to the Council's leadership structure, as follows:-

- Housing and Communities Overview and Scrutiny Panel
- Place and Sustainability Overview and Scrutiny Panel
- Resources and Transformation Overview and Scrutiny Panel (including the functions directly reporting to the Chief Executive)

The proposed terms of reference of the Panels are set out in Section 2 of the Constitution. Aligning Panels to the leadership structure delivers the benefit of the support and guidance of a single senior responsible officer for each Directorate in the Council, provides clear lines of reporting and accountability for Council business and in particular the Council's strategic priorities. Additionally, a single 'Place' based Panel provides collective ownership for this area, when it has historically been split across two Panels, leading to duplicated Portfolio Holder attendance and an absence of a single point of accountability.

The new Council will be asked to consider an appropriate meeting schedule for these Panels, to ensure their responsibilities are discharged effectively and efficiently.

4.3.6 Officers

A document outlining the delegation of powers to officers is included. This sets out the extent to which powers are delegated, and general provisions for officer decision making.

The document provides clarity and ease of understanding for the general principles of officer decision making. It supplements the existing detailed Scheme of Delegation which remains in force in respect of all those individual powers the Council and Executive have previously delegated.

4.4 Role Descriptions

4.4.1 General

It is proposed that all of the role descriptions for councillors' special responsibilities are contained in one section of the Constitution, for ease of reference.

4.4.2 Cabinet Members

A Cabinet Member role description is included, to provide clarity and accountability on how Portfolio Holders are practically expected to undertake the executive functions delegated to them by the Leader of the Council. The role description identifies the importance of compliance with the agreed procedures of the Council; expectations for policy development and priorities; the relationship with Overview and Scrutiny; the public account of their individual functions; and the management of risk and resources.

4.5 Procedure Rules

4.5.1 General

The Council's range of procedure rules set out the key statutory requirements, including how the Council and its committees will run business and the rules of debate. They set out the rights for public participation in Council business and other specific procedures including the Council's Financial Regulations.

A single section for all procedure rules is proposed, for ease of reference.

4.5.2 Standing Orders for Meetings

A review has been undertaken to update the Council's Standing Orders for Meetings, to reflect the amendments made elsewhere in the Constitution, remove anomalies, to align with legislative requirements and provide for modern working and future arrangements i.e. electronic communication and voting. There are no fundamental changes being proposed to the operation of Council meetings and the key proposed changes can be summarised as follows:-

- (a) A new deadline of 12.00 noon, two clear working days for Questions under Standing Order 22. (In practice this will result in a deadline of 12.00 noon, the Wednesday prior to the Council meeting on a Monday). This ensures that adequate time is in place to allow preparation for informed responses to be given. It also provides the public with earlier notice of the subject of questions to be asked at Council meetings. It is also proposed that Standing Orders 22 and 22A are amalgamated to avoid duplication, as the former was a historic arrangement prior to executive decision making arrangements and the introduction of Portfolio Holders.
- (b) The introduction of the consideration of recommendations individually on the Council agenda by comprehensive officer reports, replacing the reports of the Cabinet, Committees and Panels. This aligns with good practice and provides for a clear understanding of the items on the Council agenda. It also provides for a vote after each recommendation to be considered by the Council, which has been the Council's preferred practice over time.
- (c) Permitting electronic voting at the discretion of the Chairman of the meeting and if the technology is available, to provide for future voting options. It is not

proposed that this is the default voting method from May 2023. However, the new Council may wish to consider future electronic voting provision.

- (d) The requirements for a discretionary recorded vote being updated to take into account the Council's new size of 48 Members. Any request to undertake a recorded vote would require the support of 12 Members (including the Member requesting). This promotes the principle of a quarter of the Council supporting any requests for a recorded vote. The requirements for recorded votes on key budget items such as the setting of Council tax are unaffected by this.

4.5.3 Procedure for Public Participation

It is proposed that the existing working practices of requiring members of the public to meet a deadline of two clear working days when registering to speak under the Council's public participation rules, is included within the Constitution. Deadlines are currently advertised consistent with this timeline and therefore bringing this formally into the procedure rules ensures this is transparent.

It is also proposed that any public participation on items not appearing on the agenda is dealt with under the public participation item on the agenda. The current procedure refers to a period of time 15 minutes prior to the meeting starting which in practice does not provide the public with the opportunity to address the meeting in public session. A period of 15 minutes will be maintained under this agenda item.

It should be noted that there are separate, specific procedures for public participation on regulatory matters such as planning and licensing. These remain unchanged.

4.6 Codes of Conduct

4.6.1 Code of Conduct for Members

The Council is obliged to adopt a Code of Conduct relating to standards of behaviour expected of councillors and adopt arrangements by which complaints can be made and dealt with. The Council's Code of Conduct is well established and the Council's Statutory Officers consider that it has served the Council very well. It remains under regular review but no changes are proposed at this time.

It is proposed that the procedure for how complaints are dealt with is brought into the Constitution in this section for ease of reference.

4.7 Members' Allowances

4.7.1 Scheme of Members' Allowances

It is proposed that for ease of reference, the Scheme of Members' Allowances is contained in a single section of the Constitution.

4.8 Protocols

4.8.1 General

A review of the Protocols required to be held in the Council's Constitution has been undertaken, alongside those that support the general administration of the Council. It should be noted that a number of the existing documents in this section have been moved in support of the new structure of the Constitution, e.g the Standing Orders being moved into the Procedure Rules. Whilst a number of the remaining protocols

will continue to be held on the Council's website and internally on the Council's intranet, they need not form part of the Council's Constitution and to maintain a concise and user friendly document, it is suggested that the following Protocols are included:-

- (a) Policy Statement – Access to Information
- (b) Indemnity of Members and Officers
- (c) Protocol on Filming, Recording and use of Social Media

4.9 No other changes are proposed other than the moving of existing relevant information into the revised structure of the proposed new Constitution.

5. CONSULTATION

5.1 Group Leaders were consulted in the Spring of 2022 on the scope of changes, supplemented by the Cabinet report of May 2022.

5.2 Further consultation was undertaken with the Leaders of the Political Groups throughout February and March 2023. Councillors not aligned to a political group were also offered the opportunity for a briefing during this period.

6. IMPLEMENTATION

6.1 It is proposed that the current Constitution serves the Council until the quadrennial District elections in May 2023, at which time the new Constitution takes effect, from Friday 5 May 2023.

7. FINANCIAL IMPLICATIONS

7.1 Whilst there are none arising directly from this report, the reduction in the number of the Council's Overview and Scrutiny Panels will lead to a saving in the special responsibility allowances of councillors. The implications of the Council's Scheme of Members' Allowances are dealt with by separate report to the Council annually.

8. CRIME & DISORDER IMPLICATIONS

8.1 There are none directly arising from this report.

9. ENVIRONMENTAL IMPLICATIONS

9.1 There are none directly arising from this report.

10. EQUALITY & DIVERSITY IMPLICATIONS

10.1 The Constitution provides a facility for public questions and engagement and the new Council will be recommended to promote engagement from all sections of the public and enable protected groups to engage with the Council and its decision making process in a positive and accessible way.

10.2 Provisions for public and access to information and meetings have taken account of the need to mitigate the impact of processes and procedures on particular groups within the community. The impact will be kept under review as part of routine review of the Constitution moving forward.

11. PORTFOLIO HOLDER COMMENTS

- 11.1 The Electoral Review of New Forest District Council establishes a new Council from May 2023, with 48 Councillors and 26 new wards. This Constitution refresh is part of a wider programme of work which provides the new Council with a solid platform to move forward from after the 2023 elections. I endorse the recommendations.

Appendices

Appendix 1 – [Link to new Council Constitution of New Forest District Council](#)

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Background Papers:

[Cabinet report – May 2022](#)
Published documents

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