

Title: **Review of the Constitution of the Council**

Reporting Officer: **George Curran – Solicitor**

Issue

Arrangements for review and monitoring the Council's Constitution.

Background

The Council adopted a revised Constitution in December 2005 which has had effect following the Council meeting on the 12 April 2006.

Article 9 of the Constitution provides that the Standards Committee has the following responsibilities, namely, "monitoring the operation of the Constitution and recommending to the Council any changes" to it.

It is therefore appropriate for the Committee to consider how it proposes to monitor and review the operation of the Constitution.

Perhaps an initial aspect of this issue is the adoption of a timescale for such a review. In this respect it is worth noting that there will be District Council elections in May 2007 which are likely to result in the election of 'new' Councillors. The Annual Council meeting will follow those elections and be held in May 2007. It may therefore, be considered appropriate for any such review of the Constitution to be concluded, and any consequential amendments approved prior to those elections.

If that proposal is accepted then it is appropriate to consider the cycle of meetings prior to that point in time and the meeting bodies likely to be involved.

Some issues have arisen regarding decisions of the Cabinet resulting in use of the call-in process by the Scrutiny Committee. These matters will be raised in further detail later. It is however suggested that the relevant meetings should include Standards Committee, Scrutiny Committee and the Cabinet with involvement and final approval by the Council.

The following meetings have already been scheduled in the Council's programme.

Council 11 April 2007, Standards Committee 21 March 2007.

Council 21 February 2007, Standards Committee 1 February.

Council 8 November 2006, Standards Committee 19 October.

In all cases it would be possible to arrange for issues to be referred to the Scrutiny Committee and/or Cabinet in order to obtain their comments on proposals prior to consideration by the Standards Committee.

If the first of these timescales is followed this would not allow any scope for issues to be reviewed or given a second consideration if Members wished that to happen.

The latter timescale does not offer sufficient time for the Constitution to be reviewed in order to bring forward proposals to make it easier to apply and make it more relevant to the working practices of West Wiltshire District Council. It is suggested that the aims of clarity and ease of use should be the priority.

Consequently the second programme of dates appears to be the most appropriate in allowing time for the necessary work to be completed and also offer scope and time for reconsideration if that proves or is considered necessary. There is one slight difficulty with this proposal in that the February Council meeting is when the budget and related Council Tax will be set. It would therefore be necessary to refer any Constitutional issues to that meeting as additional business. The alternative, which is not unlikely, is that a Special Council meeting may be required to deal with business after the November 2006 meeting but prior to the April meeting.

It is therefore recommended to work in relation to the second cycle of meetings set out above.

Since the Constitution came into operation a number of issues have been identified relating to typographical errors in it. The Monitoring Officer is authorised to make those alterations. However, in so far as these are significant in terms of their effect it is proposed that these be reported for information.

Arising from recent call-in of a Cabinet decision about the Housing PFI Scheme it has been identified that aspects of the call-in process may benefit from further consideration with a view to clarifying the arrangements for call-in and the role/functions of the Scrutiny Committee. It is suggested that a report on these issues be prepared to set out the issues, options for consideration and recommendations be prepared.

The Constitution is a thorough and comprehensive document but its structure renders interpretation and application problematical. Consequently the layout could be changed to make it easier to navigate and apply. Additionally some aspects may be considered to be too detailed and local application could be enhanced by giving more discretion for local application reflecting local practice.

Similarly some aspects of the procedure rules relating to the conduct of meetings may also be considered to be difficult to find within the Constitution which makes it difficult for Members and Officers to interpret and apply.

As part of the ongoing process of review it is suggested that consideration be given to changing the format of the document to facilitate its use, simplify its terms and thereby make it more 'user-friendly' as well as giving it a "West Wiltshire" feel by reflecting local practice. In doing this where there is unnecessary duplication (in some cases not an accurate and/or complete duplication) this could be removed.

During this initial period of application of the Constitution Members and Officers have been informally invited to raise any issues affecting the Constitution of any nature. Notwithstanding this invitation and the fact that some matters have been raised it is considered appropriate and beneficial to initiate a further process to ask for any other issues to be identified for consideration.

Legal Issues

These will be identified in further reports to this Committee and the other bodies involved in the review process.

Recommendation

The Committee are asked to:

- (a) to adopt the second timescale for review of the Constitution and agree to involve the Scrutiny Committee and Cabinet in addition to this Committee and the Council and
- (b) to agree that a process be initiated involving Members and Officers to ask for any further issues to be identified for consideration.