

Title: Amendments to the Constitution

Lead Officer: Graham Leach, Democratic Services Manager & Deputy Monitoring Officer ([graham.leach@warwickdc.gov.uk](mailto:graham.leach@warwickdc.gov.uk) or 01926 456114)

Portfolio Holder: Councillor Day

Wards of the District directly affected: None

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## Summary

The report brings forward proposals to increase the value set for Key Decisions and to create an Audit & Standards Committee.

## Recommendation(s)

That subject to the views of the Finance & Audit and Overview & Scrutiny Committee, the Cabinet recommends to Council that:

- (1) it approves the definition of a key decision aligns with proposals for the Joint Cabinet Committee and the value set by Stratford-on-Avon District Council, as set out at Appendix 1 to the report.
  - (2) for the new Municipal year, the Council approves the creation of an Audit & Standards Committee, composed of 11 members, with the responsibilities as set out at Appendix 2 to the report.
  - (3) from the new Municipal Year the Finance & Audit Scrutiny Committee ceases to exist and its scrutiny responsibility be passed to the Overview & Scrutiny Committee;
  - (4) Audit & Standards Committee meets at least quarterly, on the dates currently scheduled for Standards Committee, and the Cabinet meetings move to the day after Overview & Scrutiny Committee.
  - (5) the Monitoring Officer is asked to consult with the Independent Remuneration Panel on the proposals and any adjustments they may recommend to the Special Responsibilities Allowances for the Committees.
  - (6) the Monitoring Officer be delegated authority to update the Constitution to reflect the approved changes.
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## 1 Background/Information

### 1.1 Key Decisions

- 1.1.1 With the commitment from both Warwick and Stratford-on Avon District (SDC) Councils to merge as a single South Warwickshire District Council, each service area is looking to align process and policy across both Councils.
- 1.1.2 One decision in this area is in respect of the definition of a key decision. This is an important value to agree early on, as alignment of this provides a more consistent position in respect of the Joint Cabinet Committee.
- 1.1.3 Warwick District Council currently defines a key decision as a decision which has a significant impact or effect on two or more Wards and/or a budgetary

effect of £50,000 or more.

- 1.1.4 The Warwick District Council defined value of £50,000 has been in place since the introduction of the original Forward Plan requirement under the Local Government Act 2000. If the figure had been indexed to inflation, 22 years later, it would now be greater than £78,000. Therefore, it is considered appropriate to review it at this time.
- 1.1.5 The proposed value of £150,000 is treble the current value set by Warwick but it will align with the current value set by SDC and that proposed as key decisions for the Joint Cabinet Committee. The wording also provides an improved clarification on a key decision, overall compared to the definition used by Warwick at present.
- 1.1.6 While this may be considered a significant change, operationally, at this time, little will change for Warwick District Council. This is because Warwick District Council would still list any report coming to Cabinet on its Forward Plan with publication 28 days in advance of the meeting.

## 1.2 **Audit & Standards Committee**

- 1.2.1 The second part of the proposal brought forward is the creation of an Audit & Standards Committee ("the Committee"). This would align, more closely, with the SDC Committee structure.
- 1.2.2 The Committee would take in the responsibilities of the current Standards Committee, the Audit responsibilities from the Finance & Audit Scrutiny Committee and some responsibilities from the Licensing & Regulatory Committee.
- 1.2.3 In respect of the audit aspect the Committee would take all the responsibilities of the Audit Committee as currently defined within the Constitution, Part 3, Responsibility for Functions, sub heading G, Finance & Audit Scrutiny Committee.
- 1.2.4 In respect of the Licensing & Regulatory Committee, the Committee would take the responsibilities in respect of electoral matters and ward boundaries.
- 1.2.5 In addition a new responsibility is added to the remit of the Committee "*Power to make determinations at Code of Conduct Hearings: Arrangements for Dealing with complaints of Councillor misconduct*" to provide clarification of its role in determining Members' Code of Conduct matters.
- 1.2.6 It is proposed that the new Committee would have the remit as defined at Appendix 2 to the report. This is broadly the same as SDC with a few exceptions. These are:
  - Review the Council's involvement on Outside Bodies;
  - Monitor the content, quality and delivery of training for Councillors in connection with the planning and licensing processes and the attendance of Councillors at such training;
  - Oversee compliance with Freedom of Information legislation;
  - Grant and supervise exemptions from political restrictions;
  - Monitor complaints handling and Ombudsman investigations including consideration of issues raised by the Ombudsman;
  - Overview the Council's Whistleblowing Policy and Procedure;
- 1.2.7 In respect of these variances to the remit of the Audit & Standards Committee at SDC, these are considered reasonable at this time for the following reasons:

- *Review the Council's involvement on Outside Bodies* – This is currently undertaken by Overview & Scrutiny Committee, in partnership with the Monitoring Officer as part of the annual feedback/scrutiny of the work undertaken by Outside appointments each year.
- *Monitor the content, quality and delivery of training for Councillors in connection with the planning and licensing processes and the attendance of Councillors at such training* – At present this work is undertaken by the Leadership Co-ordination Group and as officers have been asked to consider alignment of member development at this stage it is considered appropriate not to change this at Warwick, as there may be a need for further changes later in the year.
- *To oversee compliance with Freedom of Information legislation* – This is undertaken through quarterly performance data being made available to all Councillors for review and to raise with scrutiny if there are concerns.
- *To grant and supervise exemptions from political restrictions* – This matter is delegated to the Chief Executive at Warwick as it is considered to be a staffing matter and appropriate for the Chief Executive to determine after taking the view of the Monitoring Officer.
- Monitor complaints handling and Local Government & Social Care Ombudsman (“LGSCO”) investigations including consideration of issues raised by the LGSCO; the LGSCO recommends that their annual report is presented to Overview & Scrutiny Committee for consideration. Quarterly data is presented to all Councillors through the performance management information. From April 2022, the Joint Management Team will also receive reports detailing enhanced monitoring information detailing outcomes and learning points from complaints. At present the Council’s complaint process is in the early stages of a review to produce an aligned policy (including monitoring) across both SDC and Warwick. Therefore it is considered appropriate not to move this at present.
- Overview the Council's Whistleblowing Policy and Procedure – This is going to be reviewed further by Officers to understand the role in detail as the approval of the policy would be a Cabinet decision.

- 1.2.8 The proposal would see a reduction in number of formal decision-making Committees for the Council as well as a reduction in the number of Scrutiny Committees. Therefore Council needs to be content that any revisions allow for appropriate decision making and robust scrutiny of the Cabinet.
- 1.2.9 It is recognised that the workload of the current Standards Committee at Warwick District is not significant. This proposed revision to its remit to include the additional responsibilities, would enable greater focus on this area work by Councillors.
- 1.2.10 At present the scrutiny workload is shared fairly evenly between Overview & Scrutiny Committee and Finance & Audit Scrutiny Committee, with them both focusing on specific core areas. This has been developed by the two Committees through the use of a criteria on which Cabinet matters they will consider. This has led to a greater focus on the strategic aspects rather than details which can lead to meetings becoming bogged down and not focussing on the community as a whole.
- 1.2.11 It is important this good work is not undone and by overloading the Overview & Scrutiny Committee with the valuable pre-Cabinet work and its own scrutiny work of other matters such as performance of service delivery and monitoring the merger with SDC and how this impacts on service delivery/performance.

- 1.2.12 A key area where this may impact is the aspect of financial and project management scrutiny. Specifically the setting of fees and charges and the budget. In these instances it is proposed that Cabinet would remain on the Thursday to allow for either an additional (reserve) night for Overview & Scrutiny or a dedicated Member Group to publicly scrutinise the detail of the fees and charges and the budget. The proposals for these specific instances, to ensure good governance and public visibility, are to be developed by the Chairs of the Overview & Scrutiny Committee and the Audit & Standards Committees in the summer of 2022.
- 1.2.13 Some Pre-Scrutiny, to develop and advise on specific areas of work, is undertaken through the Programme Advisory Boards (PABs). This also helps to develop Councillor engagement and ownership of specific work streams. Officers are aware that not all matters considered by the Cabinet are passing through PABs, even as an outline and that some PABs are more active than others. The Leader will be discussing this with the individual PAB chairs within the next month.
- 1.2.14 To further enhance PABs the Leader will be making it clear to their Portfolio Holders that any significant changes in fees and charges and/or bids for growth must be considered by the relevant PAB before they come forward to Cabinet and Council. In addition the views of the PAB should also be included within the report to the Cabinet.
- 1.2.15 The improved use of pre-scrutiny questions, over recent months, including the publication of these on-line for all parties to see, has helped further enhance scrutiny across the Council and focus on core issues. Further development of this approach will continue over the coming months, including the potential for Scrutiny to comments on reports based on these questions without the need for specific officer representation of the report at their meeting. Overall the measures above should leave the Overview & Scrutiny Committee with some additional work but not a significant increase.
- 1.2.16 It is noted that the Standards Committee, is at present, only scheduled to meet four times in the next Municipal year. The change in remit would require some changes to the adopted Calendar of meetings. These may need to be revised and will be considered in partnership with the Audit & Risk Manager for Warwick District Council to work out the most appropriate dates.
- 1.2.17 Overall though the proposal should see a reduction in the number of formal Committee meetings that take place, solely for Warwick District Council, which should help to offset any increase from any expansion in the number of Joint Committee meetings that may occur.
- 1.2.18 It should be noted that the Audit & Standards Committee at SDC includes two co-opted Parish/Town Council representatives who provide the Committee with a view in respect of Code of Conduct matters relating to Town/Parish Councils. This is considered appropriate for Warwick District Council as well and proposals for this are being developed for consideration by the current Standards Committee in April.
- 1.2.19 The proposal will also mean the WDC Independent Persons are present when Audit matters are considered. At SDC the two Independent Persons are invited to all meetings of its Audit and Standards Committee and, subject to the Chairman's consent, are able to contribute to discussion of agenda items relating to standards.

- 1.2.20 Once the Committee is established and membership known there will be a programme of training identified for them. Equally discussion will be held with the Chairman of the Overview & Scrutiny Committee as to specific support for their Committee and membership with their wider remit.
- 1.2.21 It should be noted that the removal of the Finance & Audit Scrutiny Committee enables the Cabinet to meet on a Wednesday evening instead, thus reducing the number of consecutive nights Councillors have for meetings.
- 1.2.22 It is proposed that the Committee has a membership of 11 Councillors which would be politically proportionate to the Size of the Council. It would also be expected that the Leader, or their nominated deputy, attends each meeting.

## **2 Alternative Options available to Cabinet**

- 2.1 There are a number of alternative options that could be considered, many of which focus around leaving the current arrangements in place, while the Council awaits the decision from the Department of Levelling Up Housing and Communities on the bid to merge with SDC.
- 2.2 The planned merger presents a number of opportunities for the Council to work more closely with SDC, a way of achieving this could be through joint scrutiny work of key strategic matters, rather than individual scrutiny. Therefore either to replace this proposal and/or enhance it further Cabinet could include proposals for Joint Scrutiny arrangements with SDC. This is being considered as part of wider proposals but at present it is considered, even with the Joint Cabinet Committee, accountability to the respective District is the more appropriate form to provide assurance to the respective local communities.

## **3 Consultation and Member's comments**

- 3.1 The report has been informally considered by the Cabinet and Group Leaders who raised no objections to the proposal.
- 3.2 The Chairmen of the Standards Committee and Licensing & Regulatory Committee have discussed the report with the Leader and have raised no objection to the proposal.
- 3.3 The Chair of the Overview & Scrutiny Committee has considered the report and sought assurances regarding: the fees & charges and budget scrutiny; and the pre-scrutiny question process. As a result clarification has been included within the report that the Chair of Overview & Scrutiny and the Chair of Audit & Standards will bring forward proposals on the scrutiny of the fees & charges and budget in the summer. In respect of pre-scrutiny additional commentary has been included in the report about commenting on reports.
- 3.4 The report was also subject to a briefing for all Councillors on 30 March 2022. There were questions with regard to training, transparency and the impact on length of scrutiny meetings. Details of training are now included in the report. In respect of Transparency the aim is to get all PABs working to the same level and frequency to improve member engagement across the Council and not to replace scrutiny. In respect of length of meeting of scrutiny this will be monitored as it is considered this may be lower than expected.

## **4 Implications of the proposal**

### **4.1 Legal/Human Rights Implications**

- 4.1.1 Include a summary of the legal or human rights implications of the proposal.

## 4.2 **Financial**

4.2.1 There may be a marginal saving in allowances through the removal of the Finance & Audit Scrutiny Committee, but this is likely to be less than £2000.

## 4.3 **Council Plan**

4.3.1 In respect of Warwick District Council Business Plan the report has minimal overall effect but will make small contributions in respect of Climate Change and finances. The greatest impact will be in respect of a Committee with a smaller workload to focus on the audit work of the Council.

## 4.4 **Environmental/Climate Change Implications**

4.4.1 The report should see a reduction in the Council's grey fleet mileage and energy consumption for meeting rooms through the reduction in the number of overall meetings. This will however be minimal.

## 4.5 **Analysis of the effects on Equality**

4.5.1 The report does not affect equalities.

## 4.6 **Data Protection**

4.6.1 There are no data protection considerations

## 4.7 **Health and Wellbeing**

4.7.1 There are minimal gains to health and wellbeing with the reduction in the number of meetings, specifically within the same week for a few Councillors.

## **5 Risk Assessment**

5.1 The primary risks associated with the report are those regarding governance and good scrutiny. The Council needs to assure itself that it has robust scrutiny and audit arrangements in place and these proposals do not reduce the overall effectiveness of this.

5.2 It is considered that the proposals do not reduce this effectiveness but this should be closely monitored and the view of the Council's external auditor should be sought on this proposal, prior to implementation and, if implemented, after 12 months of operation.

## **6 Conclusion/Reasons for the Recommendation**

6.1 The proposals provide greater alignment with SDC ahead of the merger and intends to make the transition to a new Council smoother through gradual change.

### **Background papers:**

Please provide a list of any papers which you have referred to in compiling this report and are not published documents. This is a legal requirement.

You must also supply these when submitting the report.

### **Supporting documents:**

This is not a legal requirement but may assist others in identifying documents you have referred to in producing the report.

### Report Information Sheet

Please complete and submit to Democratic Services with report

<b>Committee / Date</b>	Cabinet 20 April 2022	
<b>Title of report</b>	Amendments to the Constitution	
<b>Officer / Councillor Approval *required</b>	<b>Date</b>	<b>Name</b>
<b>Ward Members(s)</b>		
<b>Portfolio Holder</b>	31/3/22	Andrew Day
<b>Financial Services *</b>		
<b>Legal Services (*SDC)</b>		
<b>Other Services</b>		
<b>Chief Executive(s)</b>	28/3/22	
<b>Head of Services(s)*</b>	28/3/22	Phil Grafton
<b>Section 151 Officer</b>	28/3/22	Mike Snow
<b>Monitoring Officer</b>	28/3/22	Phil Grafton
<b>CMT (WDC)</b>	28/3/22	
<b>Leadership Co-ordination Group (WDC)</b>	28/3/22	
<b>Other organisations</b>		
<b>Final decision by this Committee or rec to another Ctee / Council?</b>	Recommendation to Council on 27 April 2022	
<b>Contrary to Policy / Budget framework?</b>	No	
<b>Does this report contain exempt info/Confidential? If so, which paragraph(s)?</b>	No	
<b>Does this report relate to a key decision (referred to in the Cabinet Forward Plan)?</b>	Yes, Forward Plan item 1283	
<b>Accessibility Checked?</b>	Yes	

## **Definition of a Key Decision**

A key decision means a decision made in the exercise of an executive function by any person (including officers) or body which meets one or more of the following conditions:

(1) The decision is likely to result in the Council incurring expenditure or the making of savings in excess of £150,000. Excluded from this are all loans to banks or other financial institutions made in accordance with the Treasury Management Strategy.

Officers' delegated powers to make The Cabinet decisions are subject to the key decision/call-in regime where it is likely that the Council would incur expenditure or make savings above the threshold of £150,000.

In relation to letting contracts the key decision is the proposal to let a contract for a particular type of work. The subsequent decision to award the contract to a specific contractor will not be a key decision provided the value of the contract does not vary above the estimated amount by more than 10% for contracts with a value of up to £500,000 or 5% for contracts of over £500,000;

(2) The decision is likely to be significant in terms of its effects on communities living or working in any two or more Wards.

In considering whether a decision is likely to be significant, a decision-maker will need to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse on the amenity of the community or quality of service provided by the Council to a significant number of people living or working in the locality affected.

**Audit & Standards Committee remit**

To exercise the following duties:-

- i. To promote and maintain high standards of conduct by members of the Council.
- ii. To ensure members of the Council observe the Council's Code of Conduct.
- iii. To advise the Council on the adoption or revision of a Code of Conduct.
- iv. Monitor the operation of the Code of Conduct.
- v. To provide advice and training (or arrange training) for members on matters relating to the Code of Conduct.
- vi. To recommend to the Council on the appointment of Independent persons for the Council and of the Code of Conduct adopted by the Parish and Town Councils in the district.
- vii. To consider and determine requests for dispensation from requirements relating to the adopted Members' Code of Conduct.
- viii. *Power to make determinations at Code of Conduct Hearings: Arrangements for Dealing with complaints of Councillor misconduct*
- ix. Approve (but not direct) internal audit's strategy, plan and performance
- x. Review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary
- xi. Consider the reports of external audit and inspection agencies
- xii. Consider the effectiveness of the authority's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
- xiii. Seek assurances that action is being taken on risk related issues identified by auditors and inspectors.
- xiv. Be satisfied that the authority's assurance statements, properly reflect the risk environment and any actions required to improve it
- xv. Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- xvi. Review the financial statements, external auditor's opinion and report to members, and monitor management action in response to the issues raised by external audit.
- xvii. approve the Council's Audited Statement of Accounts.
- xviii. All matters relating to elections and electoral registration including the appointment of Councillors to a Parish or Town Council under Section 91 of the Local Government Act 1972.
- xix. All the powers and duties of the Council relating to Parliamentary Elections and Boundary Reviews.