

Report to: Council

Date of Meeting 15 April 2026

Heading/Title: Changes to the Constitution – Terms of Reference Overview & Scrutiny Committees

Cabinet Member(s): Communications and Democracy (Councillor Sarah Jackson)

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Key decision No

If a Key Decision has it appeared on Forward Plan N/A

Document classification: Part A Public Document

Exemption applied: None

Report Summary and Recommendations/Decision

The report includes an update on amendments to the Council's Constitution following a review of the Constitution by the Constitution Working Group.

In accordance with the Council's Constitution Full Council is responsible for the changes to the Constitution.

It has not been possible to provide a document with tracked changes due to the nature of the changes proposed. The table attached at Appendix 1 sets out a summary of the main changes that have been considered by the Working Group and are recommended for approval and inclusion in the Constitution.

RECOMMENDATIONS:

That the Council:

1. Approves the Terms of Reference of the Overview & Scrutiny Committees (Article 7) to be included in the Council's Constitution.
2. Delegates authority to the Monitoring Officer in consultation with the Portfolio Holder for Communications and Democracy to make any minor

1. Background

Updating of the Constitution

- 1.1 The Constitution Working Group has been carrying out a phased review of key elements of the Constitution over a series of working group meetings.
- 1.2 The Constitution Working Group was set up in 2024 at Annual Council to review the Constitution. The Constitution Working Group is a cross-party membership consisting of:

Councillor Sarah Jackson (Chair & PFH for Communications & Democracy), Councillors Paul Arnott, John Loudoun, Tim Dumper, Mike Goodman, Jenny Brown, Mike Howe, Peter Faithfull and Kim Bloxham and officer support is provided by the Monitoring Officer and Democratic Services Team.
- 1.3 The Scrutiny Improvement Plan recommendations from the Centre for Governance and Scrutiny recommended that the current structure of the three committees is maintained but that work takes place to ensure that they operate in a complementary manner. This recommendation proposed a rework of the Terms of Reference.
- 1.4 The first part of the revised Terms of Reference aims to give clarity to the way in which the three committees operate and gives details of the legal provision affecting the Overview and Scrutiny Committees, this is currently included in the current Constitution.
- 1.5 It has not been possible to provide a document with tracked changes due to the nature of the changes proposed. The table at appendix 1 sets out a summary of the main changes that have been considered by the Working Group and are recommended for approval and inclusion in the Constitution.

2. Reasons for Recommendations/Decision

- 2.1 It is important that the Council's Constitution is regularly reviewed to ensure that it remains fit for purpose and meets the Council's requirements.
- 2.2 The changes to Article 7 take into account the recommendations from the Centre for Governance and Scrutiny recommendations that the current structure of the three committees is maintained but that the three committees operate in a complementary manner.
- 2.2 This report recommends the approval of the Terms of Reference for the Overview & Scrutiny Committees.

3. Options

- 3.1 This work forms part of a review of the Constitution to ensure that it remains up to date and reflects current job titles and working practices.

4. Relevance to Council Plan/priorities

Set out how report links to the Council Plan/priorities:

- A supported and engaged community that has the right homes in the right places, with appropriate infrastructure.
- A sustainable environment that is moving towards carbon neutrality and which promotes ecological recovery.
- A vibrant and resilient economy that supports local business, provides local jobs and leads to a reduction in poverty and inequality.
- A well-managed, financially secure and continuously improving council that delivers quality services.

Having an up-to-date Constitution ensures the Council is able to support its Council Plan and priorities through the governance arrangements set out in the Constitution.

5. Financial Comments/Implications

- 5.1 There are no financial implications arising from this report as the budget for allowances payable to Panel members is from within existing budgets.

6. Legal Comments/Implications

- 6.1 Under Section 9P of the Local Government Act 2000, the Council is required to prepare and keep up to date a Constitution containing the standing orders of the Council and such other information as is required or desirable.

7. Risk Implications

- 7.1 It is important that the Council keeps its Constitution up to date to reflect best practice and any changes in legislation.

8. Equality Implications (Public Sector Equality Duty)

- 8.1 No specific negative equalities implications have been identified with the proposals set out in the new Constitution. Decisions taken by the Council, in accordance with its Constitution, will consider equalities implications and have due regards to its legal duties under the Equality Act 2010. The arrangements for committee meetings will take full consideration of equalities and public accessibility requirements. An Equalities Impact Assessment is not considered necessary for this decision as there are no direct impacts.

9. HR and Workforce Implications

- 9.1 There are no HR and Workforce implications arising from the recommendations in the report.

10.2 Community Safety Implications (Crime and Disorder)

10.1 There are no Community Safety Implications arising from the recommendations in this report.

11. Climate Change Implications

11.1 There are no Climate Change implications arising from the recommendations in this report.

12. Health & Safety and Health & Wellbeing Implications

12.1 There are no public health, health and safety or health and wellbeing implications arising from the recommendations in this report.

12.2 There are no safeguarding issues that may arise from the recommendations in the report.

13. Procurement and Social Value implications

13.1 There are no procurement and social value implications arising from the recommendations in this report.

14. Land and Buildings (non-housing)/Asset Management Implications

14.1 There are no land and buildings/asset management implications arising from the recommendations in this report.

15. Overview and Scrutiny Committees Comments/Recommendations

15.1 N/A.

16. Digital and Data

16.1 N/A

17. Consultation and Engagement

17.1 The Terms of Reference have been subject to consultation with the Chairs and Vice Chairs of the three overview and scrutiny committees and their comments during the consultation have been incorporated into the updated document.

18. Communications

18.1 Subject to approval by full Council the Council's website will be updated.

19. Next Steps

19.1 To update the Council's website to reflect the recommendations arising from this report.

20. Appendices

Appendix 1 – Terms of Reference of the Overview & Scrutiny Committees –
Article 7.

21. Background Papers

21.1 None.

Proposed update of the Terms of Reference of the Overview and Scrutiny Committees

Summary of Changes Overview and Scrutiny Committees

Article 7: The Overview and Scrutiny Committees and Part 3 Responsibility for Functions

The Scrutiny Improvement Plan recommendations from the Centre for Governance and Scrutiny recommended that the current structure of the three committees is maintained but that work takes place to ensure that they operate in a complementary manner. This recommendation proposed a rework of the Terms of Reference.

The first part of the revised Terms of Reference aims to give clarity to the way in which the three committees operate and gives details of the legal provision affecting the Overview and Scrutiny Committees, this is currently included in the current Constitution.

It has not been possible to provide a document with tracked changes due to the nature of the changes proposed. This table sets out a summary of the main changes that have been considered by the Working Group and are recommended for approval and inclusion in the Constitution.

Proposed Change	Summary of Change
Membership of committees	Proposed that all committees have 15 seats. Currently each committee has a different number of seats.
Frequency of meeting	Frequency of meetings for Scrutiny Committee 6 meetings per year, Overview Committee and Housing Overview & Scrutiny Committee to meet 4 times per year (further meetings can be called where required).
Quorum of meetings	5 councillors (no change to existing).
Restrictions on membership	Cabinet members cannot be a member of a committee, this is in line with the current wording in the Constitution.
Restrictions on Chair/Vice Chair	The Chair and Vice Chair may be any councillor of the committee. The Chair of the Scrutiny Committee cannot be from the ruling group.
Housing Review Board	Rename to Housing Overview & Scrutiny Committee Details around the non-councillor membership remain unchanged i.e. tenant representatives.
Overview and Scrutiny functions	Wording in the proposed Terms of Reference remain unchanged from the current Constitution.

Role of the Overview and Scrutiny Committees	Role of the Housing Overview & Scrutiny Committee has been amended to cover all aspects of the landlord and housing management functions.
Role of the Overview Committee	Role of the Overview Committee has been amended to provide greater clarity to the role and function of the committee.
Role of the Scrutiny Committee	The role of the Scrutiny Committee has been amended to provide greater clarity to the role and function of the committee.
Excluded Matters	New section added setting out what the overview and scrutiny committees are not able to review due to legislative requirements, i.e. planning matters.

Article 7: The Overview and Scrutiny Committees

Terms of reference

Overview and Scrutiny Terms of Reference (including Overview Scrutiny, Scrutiny Committee and Housing Overview & Scrutiny Committee.

It is a statutory requirement that Councils with executive governance arrangements (Cabinet) must have an overview and scrutiny function. EDDC has an Overview Committee, a Scrutiny Committee and a Housing Overview & Scrutiny Committee ('the Overview and Scrutiny Committees'). Collectively, the Overview and Scrutiny Committees fulfil a check and constructive challenge function for decisions, actions, and policies made by the Cabinet in order to improve services in East Devon. The Overview and Scrutiny Committees operate in accordance with the committee procedure rules in Part 4 to fulfil the statutory 'overview and scrutiny' functions.

The legal provisions affecting the Overview and Scrutiny Committees are contained in section 21 of the Local Government Act 2000 and regulations under section 9 and 32 of the Local Government Act 2000, the Police and Justice Act 2006 and the Local Government and Public Involvement in Health Act 2007.

The Overview and Scrutiny Committees have no decision-making powers but make recommendations for improvements. Each committee can appoint time-limited Task and Finish Forums to undertake specific scrutiny reviews and make recommendations back to that committee. They may also undertake 'Spotlight Sessions' to inform Councillors who can then delve deeper into topics.

These terms of reference should be read in conjunction with the scrutiny protocol and call in procedures.

Membership, Chair and Quorum of each Committee

Number of Members	15
Substitute Members permitted	No
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council

Restrictions on Membership	Cabinet members cannot be members of a committee
Restrictions on Chair/Vice Chair of Overview Committee and Housing Overview & Scrutiny Committee	None. The Chair and Vice Chair may be any member of the committee.
Restrictions on Chair/Vice Chair of Scrutiny Committee	The Chair should not be any member of the ruling group.
Quorum	5 councillors
Number of ordinary meetings per Council year:	
Scrutiny Committee	6
Overview Committee	4
Housing Overview & Scrutiny Committee	4
Additional meetings may be convened at the request of the Chair, having taken advice from relevant officers.	

Membership of Housing Overview and Scrutiny Committee

The Housing Overview and Scrutiny Committee consists of 8 Council Member representatives; 5 tenant and leaseholder representatives; and 2 independent community representatives. The non-councillor members are co-opted members and have the right to vote. Normally non-councillor committee members will serve for a maximum of eight years, subject to annual reappointment by the Council, with the objective that every four years one quarter of the non-councillor members will stand down. Council officers and others, where appropriate, will support the work of the committee.

Overview and scrutiny function

In respect of their functions, the Overview and Scrutiny Committees will:

1. Assist the Cabinet / Council in budget and policy development;
2. Consider any matter affecting the district of East Devon or its inhabitants and businesses;
3. Ensure active engagement of councillors, the public, media, stakeholders, partners and officers in the work of the Council and the Committee and to enable the voice of the wider community to be heard within the Council;
4. Make reports and/or recommendations to the Full Council and/or the Cabinet, Council, other Committees and/or partner bodies;
5. Scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to discuss their activities and performance.
6. The Overview Committee and the Scrutiny Committee will consider the directorate plans and draft budget by way of a joint meeting between the two committees in December and January each year respectively, (or such time as is appropriate).
7. Consider requests by Cabinet, Council or any other Committee of the Council, and, where appropriate, to add such requests to the work programme;
8. Review Government policy as appropriate, and assess the impact on the Council's area and make relevant recommendations to Cabinet or Council;

9. Review national best practice and guidance on effective scrutiny and recommend any changes as a result to Cabinet or Council;
10. Report annually to full Council on the work undertaken.

The work of the Overview and Scrutiny Committees is underpinned by the following guiding principles of effective scrutiny promoted by the Centre for Governance and Scrutiny:

- Provide constructive “critical friend” challenge;
- Amplify the voice and concerns of the public;
- Be led by independent people who take responsibility for their role;
- Drive improvement in public services.

Role of the Overview and Scrutiny Committees (Overview Committee, Scrutiny Committee and Housing Overview and Scrutiny Committee)

Role of the Housing Overview and Scrutiny Committee:

- Consider matters relating to the Council’s landlord and housing management functions
- Advise the Cabinet on housing policy and operational practice affecting tenants and leaseholders.
- Scrutinise decisions that Cabinet is planning to take or has taken on housing policy and operational practice affecting tenants and leaseholders.
- Maintain an active involvement in the ongoing review of the options for the future ownership and management of Council owned homes and make recommendations.
- Promote good practice and oversee service improvements
- Monitor performance on core housing management activities and report to the Cabinet.
- Assist the Cabinet monitor and prepare the Housing Revenue Account budget and the Housing Revenue Account Business Plan.
- Promote tenant and leaseholder involvement, and the updating and implementation of the Resident Involvement Strategy.
- Encourage good practice in relation to equality and diversity issues, and ensure that the needs of vulnerable tenants are satisfied.
- Advise and scrutinise on any other matters affecting the Council’s landlord duties and responsibilities.

Role of the Overview Committee

- Develop new and review existing policy (other than that falling within the remit of the Strategic Planning Committee) at its own initiative and at the request of Council or Cabinet.
- Receive reports on the effectiveness of policy implementation and make recommendations to Council and/or Cabinet, as appropriate.

- Have delegated budgetary powers in order to procure specialist information services designed to supplement resources ordinarily available to the Committee.
- Conduct research and carry out or oversee community and other consultations and develop formative policy proposals for recommendation to Council and/or Cabinet.
- Comment upon and make recommendations to Council and/or Cabinet on external reports and consultation papers.
- Question members of the Cabinet and/or committees and Senior Officers about their views on issues and proposals affecting the area.
- Liaise with external organisations operating in the area to ensure that the interests of local people are enhanced by collaborative working.
- Consider which items from the Cabinet Forward Plan will be added to the Overview Committee's annual Work Programme for pre-decision scrutiny prior to formal decisions being taken, and have regard to referrals made to it for pre-decision scrutiny, by Council or Cabinet.

Role of the Scrutiny Committee

- Hold the Cabinet (the Council's policy and decision-making group) to account.
- Examine decisions that have been made by the Cabinet and Council officers.
- Evaluate performance and progress in relation to the Council Plan priorities, Council's policy objectives, performance targets and/or particular service areas.
- Ensure that consultation, where necessary, has been carried out
- Highlight areas for improvement.
- Make recommendations to the Cabinet and/or Cabinet arising from the outcome of the scrutiny process.
- Exercise the right of call-in, for reconsideration of decisions made but not yet implemented by the Cabinet and/or a Portfolio Holder member of the Cabinet.
- Ensure services are effective and responsive to the needs of East Devon's residents by:
 - Review services, including the performance of other public bodies in the area.
 - Ensure the public are consulted where change is being proposed.
 - Ensure that services delivered represent value for money.
 - Encourage public involvement by:
 - Consider issues that are of interest to the local community.
 - Provide accessible information on the scrutiny process and activities.
 - Carry out the role of the Crime and Disorder Committee, as required for the purposes of section 19 of the Police and Justice Act 2006, including the scrutiny of the East and Mid Devon Community Safety Partnership.

Excluded matters

The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012 excludes from referral to Overview and Scrutiny the following:

- i. a planning decision;
- ii. a licensing decision;

- iii. any matter concerning an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- iv. any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview Committee or Scrutiny Committee.

A matter does not fall within the above if it consists of an allegation relating to items (i) to (iii) and it is alleged that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis.

