

# AUDIT AND GOVERNANCE COMMITTEE



Report subject	<b>Review of the Council's Constitution - Recommendations of the Constitution Review Working Group</b>
Meeting date	30 November 2023
Status	Public Report
Executive summary	<p>The report summarises the issues considered by the Constitution Review Working Group and sets out a series of recommendations arising from the Working Group for consideration by the Committee including proposed establishment of area-based planning committees and a transportation advisory group.</p> <p>Any recommendations arising from the Committee shall be referred to full Council for adoption.</p>
Recommendations	<p><b>It is RECOMMENDED that:</b></p> <ul style="list-style-type: none"><li><b>(a) in relation to Issue 1 (Planning Committee Structure and Arrangements) the proposed amendments to Parts 1, 2, 3, 4, 6 and 7, as set out in Appendix 1 to this report, be approved with an implementation date of 7 May 2024;</b></li><li><b>(b) in relation to Issue 2 (Establishment of Transportation Advisory Group) the proposed amendments to Parts 2, 3 and 4 as set out in Appendix 2 to this report, be approved with an implementation date of 7 May 2024;</b></li><li><b>(c) any necessary and consequential technical and formatting related updates and revisions to the Constitution be made by the Monitoring Officer in accordance with the powers delegated.</b></li></ul>
Reason for recommendations	To make appropriate updates and revisions to the constitution following consideration by the Working Group.

Portfolio Holder(s):	Councillor Vikki Slade (Leader of the Council and Portfolio Holder for Dynamic Places)
Corporate Director	Ian O'Donnell (Director of Resources)
Report Authors	Richard Jones (Head of Democratic Services and Interim Monitoring Officer)
Wards	Not applicable
Classification	For Recommendation

## Background

1. The Terms of Reference of the Audit and Governance Committee include 'Maintaining an overview of the Council's Constitution and governance arrangements in all respects'.
2. In discharge of this responsibility the Committee established a Constitution Review Working Group of five of its Councillors. The current members of the Working Group are Councillor Phipps (Chair) and Councillors Andrews, Beesley, Castle and Connolly. The Working Group meets on a regular basis to consider requests for change. The Group receives advice from various officers including the Monitoring Officer and Head of Democratic Services. From time to time, as required, Officers and Councillors with specialist responsibility have been invited to have an involvement.
3. Recommendations that were agreed by Council have been implemented and incorporated into a revised and updated version of the Constitution and published on the Council's web site.
4. The Working Group considers suggestions received from a wide variety and range of sources including input from Councillors and Officers.

## Format

5. Throughout the work of the Group a 'Forward Plan' of issues has been maintained and added to as additional issues have arisen. This approach will continue to be adopted for capturing future issues.
6. Any proposed changes to the Constitution are shown with track changes in the appendices to this report. Any references to page numbers are to pages within the current published Constitution.

## Options Appraisal

7. Following the elections in May 2023, the new administration indicated a desire to review the meeting arrangements for Overview and Scrutiny, Planning Committee and Traffic Regulation Order decision-making. The arrangements for Overview and Scrutiny Committee were considered in September 2023 and have been implemented.
8. This paper focuses on the arrangements for Planning Committee and Traffic Regulation Order decision-making.
9. The Working Group considers carefully whether or not changes are necessary on each issue raised. If supported, the Working Group determines the proposed alterations to the wording which forms the basis of the recommendations to the Audit and Governance Committee. This report sets out the proposed changes following those deliberations.

10. For ease of reference, each matter considered will be referred to as an Issue with a corresponding number which will be referenced through the report and recommendations.

## **ISSUE 1 – PLANNING COMMITTEE STRUCTURE AND ARRANGEMENTS**

11. The Council has operated with a single planning committee since establishment in April 2019, however, the establishment of area-based planning committees has been requested on many occasions during this period.
12. Many local authorities operate area-based planning committees which are typically seen to support commitments for more localised decision-making, community involvement and representation, an ambition of the current administration.
13. Area-based planning committees can equally present challenges which need to be carefully considered to establish safeguards, including risks to maintaining good performance levels for determining applications, consistency in decision-making and the application of policies, public participation, and ward representation. These issues are addressed in this report.

### **Proposed Model for Area-Based Planning Committees**

14. As indicated above, the new administration has indicated a desire to review the arrangements for planning committees and to establish area committees. In support of this direction the Working Group propose the following principles:-
  - The number of area-based planning committees should be two, split on an east and west basis, and named Eastern BCP Planning Committee and Western BCP Planning Committee. The Working Group noted that the planning service was being restructured to establish east and west teams and alignment would be desirable.
  - The dividing line between the two areas to be coterminous with formal ward boundaries.
  - The two areas to be determined using historical data to provide, as far as practicably possible, an equal balance of workload for the service areas, committee workload and the number of councillors.
  - The referral of applications which fall in both area-based committees to be allocated to the committee with the greatest proportion of land area.
  - The preferred number of members on each committee to be 11.
  - Political balance rules to be applied to each committee but encourage local representation from political groups where possible.
  - Substitutes members to be permitted.
  - Quarterly briefing for all area-based planning committee members to be held to promote consistency.
  - Meetings of each area committee to be held in the daytime as at present but on alternating two-weekly schedules and at the Civic Centre in Bournemouth.

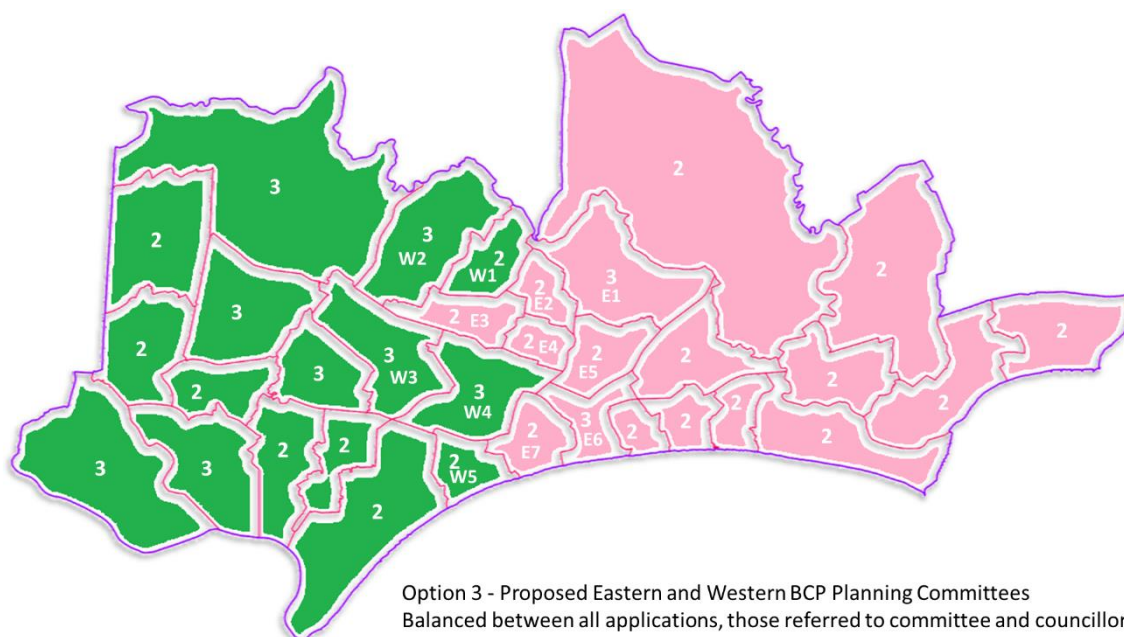
### **Division of Areas**

15. The Working Group was advised that the planning service was currently in the process of establishing two area-based teams to administer planning applications, also based on an east and west split. Members were keen to ensure that as far as practicably possible, the committees reflected this split but also wished to seek a fair distribution of workload for each committee.

16. An analysis was therefore undertaken of the total number of registered planning applications and the number of applications referred to committee by ward. There are many ways to divide the BCP area with each resulting in slightly varying outcomes. The table below illustrates the three primary options considered.

	Proportion of applications registered (since 2020)	Proportion of applications referred to committee (since 2019)	Number of ward councillors within area
<b>Option 1</b>			
Western	51.2%	50%	42
Eastern	48.8%	50%	34
<b>Option 2</b>			
Western	47.2%	49%	38
Eastern	52.8%	51%	38
<b>Option 3</b>			
Western	49.3%	49.7%	40
Eastern	50.7%	50.3%	36

17. Option 1 can be seen to provide an even distribution of workload for the committees, however, it is disproportionately divided on the number of councillors between the two areas and is uneven in terms of overall service workloads.
18. Option 2 establishes a better balance on the distribution of councillors, however, this presents the greatest disparity between the two areas for the number of applications for the service and this could have a detrimental impact on performance for the eastern team assuming the ambition is to equally resource each area team.
19. Option 3 does have a small disparity in councillor presentation, however, this option provides the closest combined division of workload for both the committee and perhaps more importantly the core service. The map and table below illustrate the proposed division of wards between the two committees. The single digit numbers indicate the number of ward councillors, and the 'W' and 'E' references identify the wards running along the boundary line as identified in the table overleaf.



Western BCP Planning Committee				Eastern BCP Planning Committee			
Ward	Registered apps	Referred apps	Ward Cllrs	Ward	Registered apps	Referred apps	Ward Cllrs
Alderney & Bourne Valley (W3)	388	9	3	Boscombe East & Pokesdown	458	10	2
Bearwood & Merley	462	11	3	Boscombe West	311	2	2
Broadstone	560	14	2	Bournemouth Central (E7)	698	13	2
Canford Cliffs	1144	24	2	Burton & Grange	286	0	2
Canford Heath	284	1	3	Christchurch Town	605	41	2
Creekmoor	277	2	2	Commons	587	22	2
Hamworthy	388	2	3	East Cliff & Springbourne (E6)	356	7	3
Kinson (W2)	423	3	3	East Southbourne & Tuckton	658	8	2
Newtown & Heatherlands	535	14	3	Highcliffe & Walkford	596	10	2
Oakdale	408	4	2	Littledown & Ilford	451	4	2
Parkstone	702	21	2	Moordown (E2)	357	4	2
Penn Hill	785	9	2	Mudford, Stanpit & West Highcliffe	676	10	2
Poole Town	660	11	3	Muscliff & Strouden Park (E1)	592	7	3
Redhill & Northbourne (W1)	333	2	2	Queen's Park (E5)	398	8	2
Talbot & Branksome Woods (W4)	139	9	3	Wallisdown & Winton West (E3)	298	1	2
Westbourne & West Cliff (W5)	436	14	2	West Southbourne	435	1	2
				Winton East (E4)	385	4	2
<b>Total</b>	<b>7,924</b>	<b>150</b>	<b>40</b>	<b>Total</b>	<b>8,147</b>	<b>152</b>	<b>36</b>

1. Registered apps are the total number of applications registered with the planning service since 2020 to date.
  2. Referred apps are the number of applications referred to the planning committee since April 2019.
  3. Ward Cllrs is the number of councillors representing the respective ward.
20. It would be important to monitor any proposed division between the two respective areas and the Working Group was keen for an operational review to take place after 12 months of operation to secure efficient and effective delivery.

### Cross-Boundary Applications

21. Inevitably there will be planning applications which cross-over the boundary line between the two respective committees. The Working Group were keen to establish arrangements which were clear to determine and avoid additional bureaucracy.
22. The Working Group dismissed options for a third committee to deal with strategic and cross-boundary applications, were reluctant to support a joint committee of potentially 22 councillors or planning applications being referred to both committees and consequential dispute resolution requirements.
23. The preferred option of the Working Group, for applications which fall within the boundary of both committees, was for the application to be referred to the committee within which the majority of the red line application site area falls within. It would be necessary to establish provisions where the calculated area was the same, and this is provided for in the proposed constitution provisions.

### Political Balance Provisions

24. The Working Group debated the options for appointing committees other than by political balance.
25. Local Authorities are permitted to appoint area committees where the composition of which may be drawn from the members of the Council whose ward falls wholly or partly within the geographical area of the committee. However, there are conditions applied which would make this practicably challenging.

26. The conditions require that each area committee may not exceed two-fifths of the total population or geographical area of the Council as a whole.
27. Whilst it may be possible to mathematically create two area committees with one being below two-fifths of the total geographical area and the other below two-fifths of the total population for the area, this would be extremely complex and require constant monitoring as population figures change. Practicably this is only feasible where three or more area committees are established.
28. The allocation of seats by political balance to each political group would be a matter for Council at the annual meeting. The Working Group were minded to encourage local representatives by political groups where possible. It was further noted that councillors may wish to serve on both area committees. Whilst this would result in a heavy workload, it would have a positive benefit of promoting consistency of decision-making.

### **Mitigating other risks**

29. As referred to in paragraph 13, there are inherent risks with area-based planning committees which require mitigation. The keys risks identified by other authorities operating area committee include risks to maintaining good performance levels for determining applications, consistency in decision-making and the application of policies, public participation, and ward representation.
30. In order to maintain good performance levels for determining applications, it is important for committees to meet frequently. The proposal is for the two committees to each meet at approximately four weekly intervals on a Thursday morning as at present but alternating bi-weekly (for example, the Western committee meeting in weeks 1, 5, 9, etc., and the Eastern committee meeting in weeks 3, 7, 11, etc.). With this proposed frequency of meetings, it will be essential that the committees and chairs have regard to the wider schedule of meetings and the availability of accommodation and officers if additional meetings are required.
31. To ensure consistency in decision making and the application of policies, it is proposed that regular briefing sessions are scheduled on a quarterly basis for all members and potential substitutes of the committees to share experiences and for issues of new and existing policy to be discussed. It was further suggested that regular updates be provided on decisions reached at the respective committees to increase awareness. Training was also considered vital for all members and substitutes on planning committee and this has been strengthened accordingly in the proposed constitution changes. A new section has been inserted in Article 8 referencing mandatory training. This includes reference to Planning Committee and TAG, the subject of this report, together with Licensing and Appeals committees, as the other quasi-judicial committees.
32. There can be a risk with area committees that all members from an individual ward are appointed to serve on the localised committee and thus diminishing the representative role for local community interests. This should not be a significant issue with only two committees but it will be necessary for political group leaders to liaise to ensure ward representation is maintained.
33. There are no changes proposed to public participation or other procedures, which shall apply equally to both committees.

### **Constitution Changes**

34. The proposed changes to the planning committee arrangements require alterations to various parts of the Constitution. The changes are largely cosmetic to reflect the establishment of two area-based committees but are included for completeness. The changes are too numerous to embed within this report and have therefore been appended to this report at Appendix 1. The changes are shown in red and include changes to the following Parts.

- Part 1, paragraph 3.7 (Other Committees), [Page 1-3]
- Part 2, Article 8 (Other Committees), [Page 2-19]
- Part 3A (Responsibility for Functions), [Pages 3-6 to 3-10] (Function of Planning Committees), and consequential changes to [3-47 to 3-48 (Specific Delegations of particular relevance to the Chief Operations Officer)
- Part 4D (Meeting Procedure Rules), [Pages 4-42 and 4-53 to 4-56]
- Part 6, Schedule 3, paragraph 1.1 (Local Code of Best Practice relating to Planning Matters), [Pages 6-24 to 4-34]
- Part 7 (Scheme of Members' Allowances), [Page 7-3] – It should be noted that the change to Part 7 is simply to reflect that two chairs will be appointed. The amount payable by way of the Special Responsibility Allowance will be reviewed by the Independent Remuneration Panel.

### **35. RECOMMENDATION**

**It is RECOMMENDED that in relation to Issue 1 (Planning Committee Structure and Arrangements) the proposed amendments to Parts 1, 2, 3, 4, 6 and 7, as set out in Appendix 1 to this report, be approved with an implementation date of 7 May 2024.**

### **ISSUE 2 – ESTABLISHMENT OF TRANSPORTATION ADVISORY GROUP (TAG)**

36. The Council currently refers all traffic regulation orders and other transport related matters to meetings of Cabinet for approval. The administration has indicated a desire to promote community involvement and local representation on issues which affect specific localities and have requested the Working Group to consider the introduction of a Transportation Advisory Group.
37. The Working Group considered the potential for establishing such a Group and are recommending that a Transportation Advisory Group be established from May 2024 based on the following principles:-
  - the membership comprise of one member from each formally constituted political group;
  - only non-executive members may serve on the group;
  - ward councillors may attend and make representations;
  - substitute members are not permitted;
  - training of TAG members shall be mandatory;
  - all TAG meetings shall be open to the public and, where practicably possible, live-streamed;
  - meetings of TAG be scheduled in the daytime and approximately two weeks before each Cabinet to allow decisions to be processed promptly;
  - where no significant or contentious objections are received in relation to a Traffic Regulation Order, the decision be delegated to officers.
38. In order to achieve these objectives, it is necessary to establish TAG as an informal consultative group rather than a formal advisory body reporting to Cabinet. Formal advisory bodies to Cabinet would have conditions imposed which would be contrary to a number of the above principles, namely political balance and executive membership.
39. To avoid unnecessary delays in determining traffic regulation orders and reduce the burden of additional reports, it is proposed to present a schedule of observations and

feedback arising from TAG to the subsequent meeting of Cabinet for determination. The schedule will contain details of TRO, the recommendations of officers, the feedback of TAG and, if different from the officer recommendation, the reasons for the variance. The Chair of TAG to present the schedule to Cabinet.

40. It should be noted that the ordinary procedure rules relating to public participation would not apply to TAG and it is proposed that TAG be permitted to adopt appropriate protocols to permit representations to be heard. This is provided for within the proposed constitution changes.

### **Constitution Changes**

41. The proposed changes to the constitution relating to the introduction of the Transportation Advisory Group are shown in Appendix 2 to this report. The changes are shown in red and include changes to the following Parts.
  - Part 2, Article 8 (Other Committees), paragraph 8.1.3 [Page 2-20]
  - Part 3A, new Section 9 (Terms of Reference) [Page 3-21]
  - Part 3B, new 89A (Delegation to Officers) [Page 3-47]
  - Part 4D, Procedure Rule 13.3 (Public Participation) [Page 4-42]
  - Part 4D, Procedure Rule 23.5 (Substitutes) [Page 4-55]

### **RECOMMENDATION**

**It is RECOMMENDED that in relation to Issue 2 (Establishment of Transportation Advisory Group) the proposed amendments to Parts 2, 3 and 4 as set out in Appendix 2 to this report, be approved with an implementation date of 7 May 2024.**

### **Resources**

42. It was reported at the meeting of the Committee in September 2023 that the changes to the Overview and Scrutiny arrangements, the introduction of area-based planning committees and TAG, would require additional resources in Democratic Services and potentially to other service areas, including planning, legal and highways.
43. The Committee was advised that the estimated full-year additional manpower costs for Democratic Services to support all of these arrangements (Overview and Scrutiny, Planning and TAG) would be in the region of £56,000. The projected cost of introducing the additional planning committee and TAG is estimated at £41,300.
44. The establishment of an additional planning committee with meetings held every two weeks will stretch the limited resources available in the legal service. This will be monitored and options explored but it may be necessary to either increase resources or reduce the level of support at some meetings.
45. The process outlined for TAG is designed to limit the impact on the transportation team, however, this will need to be carefully monitored upon implementation when the full impact will be known.

### **Summary of financial implications**

46. The report highlights the additional cost of implementing area-based planning committees and the transportation advisory group the subject of this report. The full year cost to support these additional activities is estimated at £41,300. The cost of an additional special responsibility allowance for the Chair of a second planning committee, based on existing allowances, is estimated at £10,834 from 2024/25 although this will be subject to review by the Independent Remuneration Panel. These costs will need to be included in the base budget for 2024/25 and are subject to a growth bid for the 2024/25 budget.



### **Summary of legal implications**

47. The Constitution of the BCP Council complies with relevant legislation. Where appropriate, the Constitution references relevant legislation which underpins specific procedure rules.

### **Summary of human resources implications**

48. The report highlights the additional manpower requirements to support the additional meetings resulting from the changes to the Planning and TAG arrangements. There is a risk that the changes will have a further impact on the planning, legal and highways services when the implications of these changes are better known.

### **Summary of sustainability impact**

49. There are no sustainability implications arising from this report

### **Summary of public health implications**

50. There are no public health implications arising from this report.

### **Summary of equality implications**

51. The Constitution for BCP Council sets out the rights of public access to the democratic process. Where appropriate the Equality Officer is engaged on relevant issues.
52. The proposed Constitution changes contained within this report do not impact directly or indirectly upon service users and as a consequence there are no equality implications arising from this report.

### **Summary of risk assessment**

53. The Constitution is a legally required document which prescribes the procedural and democratic arrangements for the proper governance of the Council

### **Background papers**

Published works

### **Appendices**

Appendix 1 – Proposed constitution changes relating to the introduction of area planning committees

Appendix 2 – Proposed constitution changes relating to the introduction of a transportation advisory group