

West Surrey Shadow Authority		
Report title: Governance of the Review and Preparation of the Constitution		
Report to: Constitution Sub Committee Standards Committee Shadow Authority		
Date: 27 August 2026 2 September 2026 23 September 2026		
Executive Portfolio Holder: Cllr Victoria Kiehl		
Report of: Susan Sale, Monitoring Officer (interim)		
Report author(s): Susan Sale, Monitoring Officer (interim)		
Wards affected: All Ward councillors informed: No		
Exempt from publication: No		
Key Decision: No	If a Key Decision, date registered on Forward Plan: N/A	
Report cleared for publication by:		
People Workstream	N/A	N/A
Equalities Impact Assessment complete	N/A	N/A
Implementation Team Leader (or their delegate)	N/A	N/A
S151 Officer	Susan Sale on behalf of Vicky Radford	14 August 26
Monitoring Officer	Susan Sale	14 August 26
Executive Portfolio Holder consultation	Cllr Victoria Kiehl	14 August 26
Sub Committee Chair consultation	Cllr Jo Shaw	14 August 26

Head of Paid Service	Susan Sale on behalf of Andy Brown	14 August 26
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1. Executive Summary

- 1.1** The West Surrey Shadow Authority has established a Standards Committee and a Constitution Sub Committee of the Standards Committee.
- 1.2** The primary purpose of the Constitution Sub Committee is to keep under review the Shadow Authority's Constitution, make recommendations for change where appropriate and prepare a post Vesting Day version of the constitution for West Surrey Council.
- 1.3** Initial feedback from the Monitoring Officer and the members of the Constitution Sub Committee is that the governance arrangement is too inflexible and constraining, and that more efficient operation could be achieved by way of a Constitution Working Group.

2 Recommendations:

- 2.1** That the Constitution Sub Committee resolves to recommend to the Standards Committee that they:
 - 2.1.1** **Subject to the resolution of Council to disband the Constitution Sub Committee, establish a Constitution Working Group with immediate effect, with the same membership, for the same purpose, with the same Chair and Vice Chair as the Constitution Sub Committee, and with the terms of reference as in appendix 1 to this report; and**
 - 2.1.2** **Recommend to Council that they resolve to**
 - 2.1.2.1** **Disband the established Constitution Sub Committee of the Standards Committee and note that the Standards Committee will with immediate effect establish a Constitution Working Group with the same membership and for the same purpose, with the terms of reference as in appendix 1 to this report; and**
 - 2.1.2.2** **Delegate to the Monitoring Officer the authority to amend the constitution to reflect any consequential changes arising from this decision.**

3 Reason(s) for recommendation:

- 3.1** If the members responsible for review and preparation of the Constitution were able to meet as a working group this would maintain sufficiently robust governance whilst enabling agility of decision making.

4 Next steps

- 4.1** The Constitution Sub Committee will make recommendations to the Standards Committee that their Sub Committee is disbanded and they establish a working group in its place.
- 4.2** If the Standards Committee supports the proposals they will recommend to the Shadow Authority that the Sub Committee be disbanded, and the Standards Committee will establish a Working Group with the same membership and same purpose.
- 4.3** Following the resolution of the Shadow Authority, the members will start meeting as a working group.

5 Exemption from publication

- 5.1** This report is not exempt from publication.

6 Background and Proposal

- 6.1** At the inaugural meeting of the West Surrey Shadow Authority, on 21st May 2026, the Council formally adopted the West Surrey Shadow Authority Constitution, as recommended to them by the West Surrey Joint Committee.
- 6.2** The Shadow Authority established a Standards Committee with one of its functions being to advise the Shadow Authority on the development of a Constitution for West Surrey Council. The Constitution further provided that the a Constitutional Sub Committee of the Standards Committee would be established.
- 6.3** The West Surrey Shadow Authority Constitution provides that the Constitution Sub Committee would comprise 7 councillors from the appointment membership of the Standards Committee. It is established for the purpose of keeping the Shadow Authority Constitution under regular review and preparing a constitution for West Surrey Council to be adopted from Vesting Day.
- 6.4** All recommendations of the Constitution Sub Committee are made to the Standards Committee who may determine whether to recommend amendments, alterations, deletions and additions to the Constitution, to Council.

6.5 Both the Standards Committee and the Constitution Sub Committee are constituted under the Local Government Act 1972, which provides certain constraints aimed at upholding transparency, democracy and public engagement. However, such provisions are proving to restrict the agility of the Constitution Sub Committee, which has a significant programme of work to deliver in a relatively short period of time, and must be able to operate efficiently.

6.6 The table below sets out some of the differences between a sub committee and a working group:

Sub Committee	Working Group
Decisions made in a meeting open to the public (unless they are excluded due to exempt information being considered)	The meeting does not have to be accessible to the public
A summons for the meeting needs to be published at least 5 clear working days in advance of the meeting	It is not a legal requirement to publish a summons for the meeting, although adequate notice would be given to members
Items may not be added to the agenda once it is published with the summons, unless they meet the urgency requirement	Agenda items may be added within the 5 days prior to the meeting, although sufficient notice would always need to be given
Reports on agenda items are not required to be published	Reports on agenda items would be circulated to relevant members, but would not be legally required to be published.
Members must be physically present for meetings to be able to vote on matters, leading to substitutes where members cannot attend, leading to a changing group of members working on one definitive constitution	Members unable to attend could participate in a working group meeting by joining remotely, optimising the chance of a consistent group of members working on this project.
Minutes must be produced of meetings, published and agreed as an accurate record	Minutes are not required to be produced or published, although an action log would be maintained.
Procedure Rules are adopted	Terms of Reference are in place but there is more discretion of the Chair to facilitate free discussion rather than formal debate

- 6.7** If the constitution work being undertaken by members were to be undertaken by them meeting as a Working Group rather than a Sub Committee, there would be less opportunity for public engagement, scrutiny and transparency. But the Group is not decision making; it's role is merely to make recommendations to the Standards Committee. The Standards Committee would operate in compliance with the legal requirements of being open and accessible meetings, published agendas and reports, and has the opportunity for the public to attend and ask questions. Sufficiently robust governance arrangements would remain in place should the constitution work be provided to the Standards Committee by a Working Group of their members rather than a Sub Committee.
- 6.8** Enabling members to operate as a Working Group would enable and facilitate a better quality conversation and discussion without being bound by procedure rules and rules of debate. It would also optimise consistency of membership and reduce the need for substitutes if members were able to attend remotely; members are well used to working in a hybrid way and although legislation has not yet been amended to enable this, we are aware that it aligns with the spirit of what the government intends to facilitate in the future. Members have very busy diaries during this shadow period, many are 'double hatters' and the geographical areas of West Surrey for travel is large. More members would be able to commit their time and fully engage with a working group than with a sub committee.

7 Consultation

- 7.1** Consultation has taken place with the Monitoring Officer and the Deputy Monitoring Officers and no objections have been raised.
- 7.2** Informal consultation took place with members of the Constitution Sub Committee at their meeting on 6 August 2026.
- 7.3** Consultation has taken place with Cllr Kiehl, as the relevant portfolio holder.

8 Key Risks

- 8.1** If the group remains as a Sub Committee there is a risk that members may need to give apologies or use substitutes on more occasions, which is not ideal when outcomes of one meeting will feed into and impact the outcomes of the next, as several meeting will work on this one major project.
- 8.2** If the group remains as a Sub Committee, efficiency is unlikely to be optimised as compliance with the Local Government Act provisions would need to be complied with.

- 8.3** If the Group becomes a Working Group, their meetings will not be open to the public and their papers will not be published; but their recommendations will be considered by the Standards Committee at meetings accessible to the public, based on reports and agendas that are in the public domain.

9 Options

- 9.1** Option 1: To disband the Constitution Sub Committee of the Standards Committee and establish a Working Group of the Standards Committee to fulfil the same purpose (Recommended).
- 9.2** To make no changes to the Constitution and leave the Constitution Sub Committee of the Standards Committee fulfilling its existing purposes. (Not Recommended).

10 Issues for consideration

10.1 Financial Implications

- 10.1.1** There are unlikely to be any financial implications arising from the proposal as the same number of meetings would be required with the same officer support regardless of whether there is a Constitution Sub Committee or a Working Group.

10.2 Section 151 Officer Commentary

- 10.2.1** No further comments

10.3 Legal Implications

- 10.3.1** The Standards Committee and the Constitution Sub Committee are established in accordance with section 102 Local Government Act 1972. Section 100A of the Act provides for their meetings needing to be open to the press and public in most circumstances; section 100B provides arrangements for access to reports, agenda and minutes.

10.4 Monitoring Officer Commentary

- 10.4.1** No further comments

10.5 People/Human Resources Implications

- 10.5.1** There are no relevant implications.

10.6 Equality and Diversity Implications

- 10.6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 10.6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 10.6.3 Enabling the constitution work to be undertaken by members attending remotely where necessary or more convenient should promote equalities issues by making participation in the meetings more accessible to members.

10.7 Climate Change and Sustainability Implications

- 10.7.1 Enabling members to attend meetings to undertake the constitution work remotely where convenient or necessary should reduce travel across the area and have a positive impact in terms of climate change.

10.8 Stakeholders Implications

- 10.8.1 If meetings become a Constitution Working Group, there is less opportunity for stakeholder engagement in proposing recommendations to the Standards Committee. But there is ample opportunity for public and stakeholder engagement when the recommendations are considered at the Standards Committee.

11 Overview & Scrutiny Comments

- 11.1 N/A

12 List of Appendices

12.1 Appendix 1: Proposed Terms of Reference for the Constitution Working Group

13 List of Background papers

13.1 West Surrey Shadow Authority Constitution