

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL - TUESDAY, 21 NOVEMBER 2017

Title of report	UPDATE TO THE COUNCIL'S CONSTITUTION
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Purpose of report	To seek Council's approval of the proposed amendments to the Constitution.
Council Priorities	All.
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Screening</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>None.</p> <p>A clear and up to date Constitution will minimise the risk of the Authority failing to comply with statutory requirements and assist in delivering its priorities and objectives.</p> <p>Not applicable.</p> <p>Not applicable.</p> <p>Clear and robust governance arrangements and procedures assist with the effective and efficient delivery of services and proper decision making.</p>
Comments of Head of Paid Service	The report is satisfactory.
Comments of Section 151 Officer	The report is satisfactory.
Comments of Monitoring Officer	The report is satisfactory.
Consultees	<p>Chief Executive</p> <p>Head of Legal and Support Services</p> <p>Policy Development Group</p>

Background papers	<p>Report to Policy Development Group – 20 September 2017, as Appendix A to this report.</p> <p>Minutes of Policy Development Group – 20 September 2017, as Appendix B to this report.</p>
Recommendations	<p>1. MEMBERS APPROVE THE AMENDMENTS TO THE CONSTITUTION SET OUT IN PARAGRAPH 3.6, 4.8 AND 4.12 AND AS SET OUT IN APPENDICES 1-3 OF THE REPORT TO PDG</p> <p>3. THAT COUNCIL AUTHORISES THE HEAD OF LEGAL AND SUPPORT SERVICES TO MAKE THE AGREED AMENDMENTS AND ANY CONSEQUENTIAL AMENDMENTS TO THE CONSTITUTION AND RE-ISSUE THE DOCUMENT.</p>

1.0 INTRODUCTION

- 1.1 The Local Government Act 2000 requires each Local Authority to prepare, keep up to date and publicise the document known as the Constitution.
- 1.2 The Constitution should be logical, integrated and accessible to members, officers, local people and anyone else interested in the way a local authority makes its decisions. There is also a statutory requirement on the Council's Monitoring Officer to keep the Constitution up to date, and accordingly the update of the Constitution is an on-going process.

2.0 BACKGROUND

- 2.1 Full Council regularly considers items relating to updates to the Constitution. The updates are generally required due to legislative and organisational changes or to clarify and improve processes within the Authority to reflect best practice. Members may recall that, in response to comments and suggestions made by members at Council, it was agreed that:
- (i) the Constitution underwent one main annual review - around the time of Annual Council;
 - (ii) any remaining changes or matters arising after this date would be dealt with by way of one mid year review;
 - (iii) further reviews or changes would only be suggested outside this process if legislation or national guidance required it;
 - (iv) there was some "scrutiny" of the main annual review report whilst in draft and prior to its publication;
 - (v) there would be informal consultation / engagement with members on the mid year and other reviews.

3.0 CHANGES TO THE CONSTITUTION

The Role of Policy Development Group (Scrutiny)

- 3.1 Every local authority that operates Executive arrangements is required by Section 9F of the Local Government Act 2000 is required to appoint one or more committees of the authority to review or scrutinise decisions made or other action taken in connection with the discharge of any functions which are the responsibility of the executive.
- 3.2 This review function includes the right to 'call-in' a decision for review.
- 3.3 At this Council the scrutiny function lies with Policy Development group (PDG).
- 3.4 Currently the constitution specifies that PDG will hold four meetings per year, with an additional facility to arrange ad-hoc meetings in the event that a call-in cannot be dealt with at a previously scheduled meeting.
- 3.5 As a matter of routine PDG is asked to consider and comment in advance on decisions to be made by Cabinet and Council, for example on budget proposals and constitutional changes. The cycle of PDG meetings is not always synchronised with the decision making process for example and this can cause both delays in reports being submitted to PDG and a heavy workload at meetings.

Recommendation

- 3.6 **It is proposed that the number of meetings of PDG be increased from 4 to 6 and that where possible 'call-in's' will be dealt with at the next scheduled meeting although the ability to call an extra meeting to consider a call-in is retained.**

The proposed amendment to the constitution is attached at Appendix 1 to the report to PDG.

4.0 Contract Procedure Rules

- 4.1 In 2015 as a result of the enactment of the Public Contracts Regulations 2015 the Council reviewed and updated its Contract Procedure Rules which set out the procedures that officers should consider when procuring goods and services.
- 4.2 Officers now consider it appropriate that further amendments are made to reduce the administrative burden on officers and members and to streamline the procedures to make them more effective and efficient.
- 4.3 Arising from this review members attention is drawn to the following points:

4.4 Key Decisions

- 4.5 The Constitution currently defines a key decision as a decision whereby the Council will either incur expenditure or result in a saving of £100,000. This value has not been increased for at least 10 years.
- 4.6 Unless there is a pre-existing delegation Key decisions must be made by Cabinet.
- 4.7 As a result of the fact that the financial value has not been increased the number of requests for Cabinet approval for contracts where the aggregated value over the term of the contract exceeds £100,000 is increasing, when in reality those contracts are 'business as usual'.

Recommendation

- 4.8** It is proposed therefore that whilst the financial value of a Key Decision is maintained at £100,000 a mechanism is adopted that excludes contracts from the definition of a key decision where:

The expenditure is in relation to a contract for goods or services and:

1) The term of the contract is for more than 1 year and less than 5 years, and:

2) The aggregated value of the contract does not exceed more than £250,000 over its term, and:

3) The value of the contract does not exceed £100,000 in any one year of the term

A copy of the proposed amendments to the constitution is attached as Appendix 2 to the PDG report.

4.9 Contracts

- 4.10** The Council currently has three types of contract, Small, Medium and Large, each with different procurement requirements.

4.11 Small – Current requirement

Currently the process for spending anything above £0 to £999.00 requires that three verbal quotes are obtained. As a result the rules are onerous for trivial purchases, and can create a culture of ignoring the rules when officers are spending small amounts (of say up to £100.00). The rule is also difficult to enforce.

Medium sized purchases

Purchases between £1,000 and £10,000 require three verbal quotes and purchases between £10,000 and £24,999 require three written quotes against a specification. The constitution also requires that appropriate officers are authorised signatories for incurring expenditure. The level of authorisation is determined by the Head of Finance in conjunction with Internal Audit and will vary dependent upon the seniority of the officer. Currently officers who are authorised to incur expenditure may not be authorised to enter into formal contracts and creates uncertainty amongst staff about the correct authorisation procedures and creates more bureaucracy. The proposed amendment to the procedure will empower staff to make practical decisions and reduce unnecessary bureaucracy.

4.12 Recommendations

That small and medium contracts be merged within the constitution

All spend below £999.00 is delegated to the budget holders professional judgement which will be auditable by reference to the purchase order which will also provide sufficient finance and governance oversight.

That officers who are authorised signatories are also authorised to enter into contracts up to the level of the authorisation (except where other provisions in the contract procedure rules prohibit it).

A copy of the proposed amendments to the constitution is attached as Appendix 3 to the PDG report.

- 4.13** That the Monitoring Officer is authorised to make any consequential amendments

required to the constitution

5.0 COMMENTS FROM POLICY DEVELOPMENT GROUP

- 5.1 The draft Council Report was considered by Policy Development Group 20 September 2017. The report is attached at Appendix A.
- 5.2 Comments of members of Policy Development Group on the proposed amendments to the constitution are contained within the draft minutes attached at Appendix B.

6.0 Recommendations

- 6.1 Members are asked to approve the recommendations set out in Paragraphs 3.6, 4.8 and 4.12