

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL - TUESDAY, 26 FEBRUARY 2019

Report Title	<b>REVIEW OF THE COUNCIL'S CONSTITUTION</b>
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Purpose of report	To approve the proposals to amend and improve the Council's constitution set out in this report
Council priorities	Appropriate corporate governance feeds into all Council priorities
Implications:	
Financial/Staff	Minor budgetary implications are set out in paragraphs 3.9 and 3.10
Risk Management	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.
Equalities Impact Screening	N/A
Human Rights	N/A
Transformational Government	Clear and robust governance arrangements and procedures assist with the effective and efficient delivery of services and proper decision making
Comments of Head of Paid Service	The report is satisfactory.
Comments of Section 151 Officer	The report is satisfactory.
Comments of Deputy Monitoring Officer	The report is satisfactory.
Consultees	Strategy Group Audit and Governance Committee Corporate Leadership Team

	Internal Auditors Policy Development Group
Background papers	<a href="#">Audit and Governance Committee Report and Minutes – 5 December 2018</a> <a href="#">Policy Development Group Report and Minutes – 6 February 2019</a>
Recommendations	<p><b>1. THAT THE AMENDMENTS TO THE COUNCIL'S CONSTITUTION SET OUT IN THIS REPORT ARE ADOPTED</b></p> <p><b>2. 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.</b></p>

## **1 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.
- 1.3 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. A good example of this is the changes brought to Council in respect of the Council's planning function following the Planning Peer Challenge report. This report takes a wider look at improvements to the Council's processes.

## **2 UPDATE TO THE AUDIT AND GOVERNANCE COMMITTEE'S TERMS OF REFERENCE**

- 2.1 Following the publication of the Chartered Institute of Public Finance & Accountancy's (CIPFA) revised and updated edition of the document *Audit Committees: Practical Guidance for Local Authorities and Police*, the Audit and Governance Committee has undertaken self-assessment process. Details of this process are set out in the Audit and Governance Committee's report of 5 December 2018.
- 2.2 One of the outcomes of this self-assessment was a revised set of Terms of Reference which the Audit and Governance Committee approved at the December 2018 meeting. These new Terms of Reference are attached at Appendix A. Members will note one change (underlined at paragraph 13 of the Terms of Reference) to the draft terms approved by the Audit and Governance Committee. This minor change is recommended by the Audit Manager, recently returned from maternity leave, who has identified that this should have been carried over from the current Terms of Reference.
- 2.3 It is proposed that the revised Terms of Reference attached at Appendix A are adopted.

### 3 CHANGES TO THE POLICY DEVELOPMENT GROUP

- 3.1 The Local Government Act 2000 introduced a new political management system for local councils in England and Wales, requiring them to have a separate 'executive' in the form of a leader, or elected mayor, and cabinet. To provide a counterweight for this, the Act also introduced the concept of 'overview and scrutiny', whereby every council with an executive management structure is required to have an overview and scrutiny committee. This enables the rest of the council to scrutinise the executive by investigating its decisions and policies, and publish reports and recommendations where any issues are identified. As members are aware, this Council's overview and scrutiny committee is the Policy Development Group (PDG).
- 3.2 PDG is becoming increasingly engaged and proactive in the review of policy and major projects in the development stage, as opposed to scrutiny following Cabinet decisions. This is due to an increased level of member interest and the desire by officers to take more items to PDG prior to Cabinet or Council to inform robust policymaking. Recent meetings have comprised very long agendas which needed to be carefully managed in terms of content and time.
- 3.3 The Constitution currently allows for six meetings of the Policy Development Group in a civic year. At its meeting on 10 December 2018, Strategy Group considered that this number of meetings would be insufficient to provide proper scrutiny given the increasing workload of PDG. The solution proposed is to establish two scrutiny committees which would have equal standing and functions but each focus on certain policy areas as follows:
- **Corporate Scrutiny Committee** (supported by the Strategic Director of Housing and Customer Services)
  - **Community Scrutiny Committee** (supported by the Strategic Director of Place)
- 3.4 These Committees would each meet five (5) times per year. Officers recommend this frequency so that quarterly reports and reports that need to be presented at specific times of the year (e.g. draft budget papers) can be accommodated in sync with relevant Council or Cabinet meetings. As is the case now, meetings could be cancelled by the Chief Executive in consultation with the relevant Chair if there is insufficient business. In addition, further meetings may be arranged for expediency at short notice if there is a call-in or by the Chief Executive in consultation with the relevant Chair.
- 3.5 The Chair of each Scrutiny Committee will be decided at annual Council when nominations are put forward for the seats on each committee based on proportionality rules. The directors will work with the Chairs of each committee to establish the operational arrangements for the new scrutiny structure. This will include looking at the forward plan, the annual report for scrutiny and liaison with members.
- 3.6 The equal standing and functions of each committee mean that urgent business or called-in Cabinet decisions could be referred to the most expedient scrutiny committee. However, unless such urgent situations occurred it is proposed that the functions be split as set out in the following, non-exhaustive, lists:

<b>Corporate Scrutiny Committee</b>	<b>Community Scrutiny Committee</b>
Asset Management	Business/Economy
Estates and property	Planning and Building Control (excluding quasi-judicial functions)
Audit	Tourism
Communications	Partnerships
Customer Services	Community Safety
Finance	Leisure
Human Resources	Health and Wellbeing
ICT	Stronger Safer Communities
Legal Services	Environmental Health
Revenue and Benefits	Licensing (excluding quasi-judicial functions)
Shared Services	Environmental Protection
Review of Constitution	Statutory crime and disorder committee
	Strategic Housing – Housing Strategy
	Housing Management
	Economic Development
	Regeneration
	Waste Services

### **Terms of Reference**

- 3.7 The proposed Terms of Reference for this new scrutiny structure are attached at Appendix B. These Terms of Reference include appropriate checks and balances so that where a scrutiny function (such as “call-in”) is exercised by one of the new scrutiny committees on a particular matter, it cannot be exercised by the other scrutiny committee on the same matter.
- 3.8 It is proposed that the new twin scrutiny committee system takes effect in the new Civic Year, commencing in May 2019, with each new committee made up of 10 members.

### **Cost and resource implications**

- 3.9 Training will be provided to the members and chair(s) of the new committees, focusing on how scrutiny adds value. This is available from the Centre for Public Scrutiny (CfPS) and will be included as part of the Member induction programme at a cost of approximately £1,900. There will be two half-day or evening sessions, each lasting 3-4 hours to cover essential skills training and development. This will need to be reflected in the budget for 2019/20.
- 3.10 The additional scrutiny committee will attract a Special Responsibility Allowance for the Chairman which currently stands at £5,113.06 per year. This will need to be reflected in the budget for 2019/20.
- 3.11 Officers have considered the resources of the Democratic Services Team in relation to arranging these meetings and taking minutes of them. Officers’ view is that 10 well managed and scheduled meetings will be easier to manage than the current system which has some scheduled and some ad hoc meetings (sometimes called or brought forward at the last minute). Reducing the unwieldy agendas mentioned above will also reduce staffing concerns.

### **Next Steps**

- 3.12 Subject to Council’s agreement to the recommendations in this report, the following actions will be undertaken:

- (1) The Monitoring Officer will amend the Constitution with regard to the changes to the Terms of Reference of the Scrutiny Committees from May 2019. This will include an update to the Scrutiny Procedure Rules to reflect the new Scrutiny Committee Structure (see Appendix C). The Monitoring Officer will also amend references to “Policy Development Group” throughout the Constitution to refer to the new structure.
- (2) The annual timetable of meetings will be drafted by the Democratic Services Team to include the two Scrutiny Committees (this will be done in consultation with the Policy and Performance Team to enable the timetabling of the quarterly performance reports). This will be agreed at Annual Council in May 2019.
- (3) The political proportionality will be calculated by the Democratic Services Team Manager immediately after the election taking into account the two Scrutiny Committees and the number of seats thereon.
- (4) The annual report on appointments to Committees will be prepared by the Democratic Services Team which will seek nominations to the seats on both the Scrutiny Committees at the Annual Council in May 2019.

#### **4 PERIODIC REVIEW OF THE CONSTITUTION**

4.1 The Monitoring Officer, with support from Legal Services, undertakes a periodic review of the constitution to ensure it remains in line with current legislation and reflects the working practices of the Council. The changes proposed following a recent review are listed below and are shown as underlined and strikethrough text in Appendix D.

4.1.1 Minor amendments to the following sections of the Constitution to ensure they accurately reflect the split of functions between the Executive (Cabinet) and Full Council in accordance with the *Local Authorities (Functions and Responsibilities) (England) Regulations 2000*:

- a) Section 2 – Council Functions
- b) Section 3 – Local Choice Functions
- c) Section 4 – Executive Functions
- d) Section 7 – Scheme of Delegation to Staff

4.1.2 Amendments to the Contract Procedure Rules to:

- a) Cater for the award of contracts to Council-owned companies where the public procurement regime gives an exemption.
- b) Make the table of financial authorisations more user-friendly and align it with the processes in place in the Finance Department.
- c) Clarify authority to enter into contracts where the Council is not going to incur costs such as grant documents where the Council is receiving the grant, information sharing agreements and contracts where the Council is providing goods or services in exchange for a revenue payment.

4.1.3 Alignment of the Cabinet power in relation to purchasing property with the Council's acquisitions policy and alignment of the Cabinet power in relation to disposals of property with existing delegations in the Scheme of Delegation. This ensures consistency throughout the Constitution.

4.1.4 Amendments to the Scheme of Delegation to:

- a) Insert an express power in the Scheme of Delegation for the Strategic Director of Housing and Customer Services to sign Closure Notices issued under the Anti-Social Behaviour Crime and Policing Act 2014.

- b) Insert the new Strategic Finance Manager as a financial signatory in the Financial Procedure Rules.
- c) Re-organisation of powers delegated to Directors following the organisational restructure carried out during 2018. This is simply for clarity and no new delegations are being added.

## **5 FUTURE REVIEWS**

- 5.1 Work is under way to review the Council's Financial Procedure Rules and consider the need for a specific set of delegations to the Head of Finance. These will be presented to the relevant scrutiny committee and Council in the new civic year.
- 5.2 Work is also under way to prepare Social Media Guidance for members that will tie into the Code of Conduct so that there is clarity over what constitutes actions carried out "in the capacity of a Member". This will be brought to the Audit and Governance Committee for review as the committee which monitors ethical conduct. Any updates required to the Constitution will be brought to Council in due course.