

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

POLICY DEVELOPMENT GROUP – 16 JULY 2014

Title of report	UPDATE OF THE COUNCIL'S CONSTITUTION
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Purpose of report	To seek Scrutiny's recommendation to Council to postpone the Annual Review of the Constitution
Reason for Decision	To comply with the Constitutional update procedure agreed by Council
Council Priorities	Value for Money
Implications:	
Financial/Staff	None.
Link to relevant CAT	
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 Assessment	Not applicable.
Human Rights	Not applicable.
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 Monitoring Officer	As author of the report, the report is satisfactory
Consultees	Statutory Officers. Head of Legal and Support Services. Procurement and Partnership Manager.
Background papers	None.
Recommendations	THAT POLICY DEVELOPMENT GROUP ON THE ADVICE OF THE MONITORING OFFICER APPROVES THE RECOMENDATION CONTAINED IN PARAGRAPH 4.9 OF THE REPORT THAT THE ANNUAL REVIEW OF THE CONSTITUTION IS POSTPONED PENDING ENACTMENT OF LEGISLATION LIKELY TO AFFECT THE REVIEW

1.0 BACKGROUND

1.1 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.

2.0 ROLE OF SCRUTINY

2.1 Where amendments are identified and proposed Policy Development Group are asked to consider the draft Council report and comment on the suggested amendments.

3.0 PROCESS OF REVIEW

- 3.1 As indicated at 1.1 above updates are generally required due to legislative and organisational changes or to clarify and improve processes within the Authority to reflect best practice.
- 3.2 Each year a survey of Officers is undertaken and they are invited to submit proposed amendments for consideration by the Monitoring Officer which arise from legislative changes, organisational changes or for reasons of business efficiency
- 3.3 In parallel with this process the Legal Services Team review any proposed legislation which is likely to require amendments to the constitution.

4.0 INITIAL OUTCOME OF REVIEW 2014

- 4.1 The annual survey of Officers this year has resulted in a small number of requests to amend the constitution to reflect organisational changes along with a number of minor changes for the purposes of clarity.
- 4.2 The Monitoring officer has a duty under the constitution to maintain an up-to-date version of the constitution in the following terms:

“Maintaining the Constitution. The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public. The Monitoring Officer is given delegated authority to make changes to the Constitution to reflect changes of fact and law, and decisions of the Council and of the Cabinet.”

- 4.3 It is considered that it would be appropriate for those changes to be made by the Monitoring Officer using her delegated powers to ensure that the Constitution correctly reflects the organisational structure, for example:

- A) amending the Scheme of Delegation to reflect correct job titles resulting from organisational changes
- B) Amending the Scheme Delegation following decision of Council or Cabinet
- C) Amending standing orders or the transfer of delegations

- 4.4 Additionally the Legal Services Team has identified a number of draft regulations which will impact on the Constitution, in particular ‘The Openness of Local Government Bodies Regulations 2014’.

- 4.5 Those regulations will introduce a right for members of the public, (including the press) to record all meetings of the Council.

- 4.6 The regulations will also introduce further requirements in relation to the recording and publication of Officer Decisions, the publication of background papers and introduces criminal offences of obstructing or refusing access to written records or background papers. The full implications of these draft regulations cannot be assessed until they are confirmed.

- 4.7 Also a new EU Directive has been issued revising the public procurement directives which have to be assessed for any impact the Directive may have on the contract procedure rules along with the findings of Procurement Task Force (Which is an officer working group looking at our corporate approach to procurement). It is anticipated that

as result of those findings amendments may be required to the Council's Contract Procedure rules.

- 4.8 Taking all these matters together it is the opinion of the Monitoring Officer that it would be prudent to postpone the Annual Review of the Constitution until a detailed assessment has been made of the impact on the Constitution and any necessary amendments have been formulated.
- 4.9 It is therefore recommended that Policy Development Group having considered the advice of the Monitoring Officer agrees that the Annual Review of the constitution is postponed for the reasons outlined above.