

<b>Title of Report</b>	<b>UPDATE OF THE COUNCIL'S CONSTITUTION</b>	
<b>Presented by</b>	Councillor Nick Rushton Corporate Portfolio Holder	
<b>Background Papers</b>	<a href="#">Audit and Governance Committee Report and Minutes – 22<sup>nd</sup> July 2020</a>	<b>Public Report:</b> Yes
<b>Financial Implications</b>	None	
	<b>Signed off by the Deputy Section 151 Officer:</b> Yes	
<b>Legal Implications</b>	None other than as contained within this report	
	<b>Signed off by the Deputy Monitoring Officer:</b> Yes	
<b>Staffing and Corporate Implications</b>	None	
	<b>Signed off by the Head of Paid Service:</b> Yes	
<b>Purpose of Report</b>	To approve the proposals to amend and improve the Council's Constitution set out in this report.	
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. THAT THE AMENDMENTS TO THE COUNCIL'S CONSTITUTION SET OUT IN THIS REPORT ARE ADOPTED</li> <li>2. THAT THE COUNCIL FUNCTIONS RELATING TO THE ISSUE OF PAVEMENT LICENCES PURSUANT TO SECTIONS 1-7 OF THE BUSINESS AND PLANNING ACT 2020 (PAVEMENT LICENCES) BE DELEGATED TO THE DIRECTOR OF PLACE</li> <li>3. THAT THE COUNCIL AUTHORISES THE MONITORING OFFICER TO MAKE THE AGREED AMENDMENTS AND ANY CONSEQUENTIAL AMENDMENTS TO THE CONSTITUTION AND RE-ISSUE OF THE DOCUMENT</li> </ol>	

**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. The Monitoring Officer has delegated powers to make any necessary changes to the Constitution to reflect changes of fact and law, and decisions of the Council and of the Cabinet.
- 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.
- 1.4 In parallel with this process the Legal Services Team reviews any proposed legislation which is likely to require amendments to the Constitution.
- 1.5 Relevant Managers within the Council have been consulted as to whether they require any changes to be made to the Constitution in relation to their service areas and although this has yielded very few requests, those that have been requested are reflected within this report.

## **2. PROPOSED CHANGES**

Proposed Changes to the Constitution are detailed below:

### **2.1 Change to Part 4, Paragraph 4.7 (Contract Procedure Rules) – Rule 1.4 (c)**

- 2.1.1 NWLDC's Standing Orders, contained within the Constitution, are made pursuant to S.135 of the Local Government Act 1972. They have been prepared in accordance with the Public Contracts Regulations 2015 (PCR 2015), the Authority's policies and to facilitate small and medium enterprises in the local area the opportunity to enter into the Authority's supply chain.
- 2.1.2 The Standing Orders contained in Part 4, Paragraph 4.7 of the Constitution (the Contract Procedure Rules) set out how the Council will invite tenders, obtain quotations and award contracts for supplies, services or works. Financial Procedures provide the framework for managing the Council's financial affairs. They are supported by more detailed Financial Management Standards which set out how the procedures will be implemented.
- 2.1.3 Where the Council is disposing of goods, officers are required to seek advice from the Head of Finance and have regard to the provisions of the Financial Procedure Rules contained in Part 4, Paragraph 4.8 of the Constitution.
- 2.1.4 Pursuant to Paragraph 4.7, sub-section 1.4. of the Contract Procedure Rules, the Rules referred to in 2.1.3 above do not apply to:
  - (a) contracts with local authorities for the joint delivery of services or discharge of functions, save the obligation to secure value for money for the Authority;
  - (b) transactions for the sale, purchase or lease of land or property;
  - (c) Contracts which benefit from any exemption to the Public Contracts Regulations 2015 contained in Regulation 12 of those regulations.
- 2.1.5 It is proposed to widen Contract Procedure Rule 1.4 (c) above by also including reference to Regulation 10 of the PCR 2015. This will then allow the Council to

award service contracts specifically excluded from the PCR 2015. As currently drafted our Contract Procedure Rules would require us to undertake a competitive tender where this is not required by the PCR 2015. The inclusion of Regulation 10 at Contract Procedure Rule 1.4 (c) does not prohibit us from undertaking a competitive tender should we so wish in order to ensure value for money, it simply removes the necessity to complete one where not practical or appropriate.

- 2.1.6 It is proposed that the revised Contract Procedure Rule at Part 4, Para 4.7 subsection 1.4 (c), attached at Appendix A, are adopted.

## **2.2 Change to Part 4, Paragraph 4.1 Council Procedure Rule 4.3**

- 2.2.1 The Council Procedure Rules (CPR's) are set out in Part 4 of the Constitution and constitute the Council's statutory procedural standing orders which apply to the running of Council meetings. By virtue of Rule 4.2 of the CPR Rule 4.2 applies many of these CPR's to the Authority's boards and committees. CPR 10 which relates to questions raised by the public at Cabinet and ordinary meetings of the Council, and which is set out in the appendix to this report, does not apply specifically to boards and committees. However, by virtue of Rule 4.3, CPR 10 has been specifically applied to Scrutiny Committee.

- 2.2.2 Although the Terms of Reference of the Local Plan Committee refer to questions made by the Public at its meetings, there is no specific application of CPR 10 by virtue of Rule 4.3 and for clarity and consistency purposes, it is now proposed to reference the application of CPR 10 to the Local Plan Committee by virtue of CPR Rule 4.3.

- 2.2.3 It is proposed that the revised Council Procedure Rules at Part 4, paragraph 4.1 Rule 4.3, attached at Appendix B are adopted.

## **2.3 Addition to Council Procedure Rules - Remote Meeting Procedure Rules (Temporary Standing Order 4A)**

- 2.3.1 During the current Covid 19 pandemic, everyone is experiencing a fast paced period of change and uncertainty. Indeed, following the closure of the Council Offices, and requirements to limit social interaction and safeguard those in vulnerable health groups, it has been necessary to change the way meetings are held to enable remote access.

- 2.3.2 Remote meetings of the Council, and its various committees and sub-committees have been successfully held remotely since April 2020. To regularise the position it is therefore requested that a suitable set of rules around remote meeting procedures be added to the existing CPR whilst the relevant regulations referred to below remain in force. These additional rules will be referred to as "The Remote Meetings Procedure Rules" and are attached at appendix C to this report. All available legal and senior officers have been consulted.

- 2.3.3 "The Remote Meetings Procedure Rules" are required to be incorporated into the Constitution for the purpose(s) of giving operational effect to the provision(s) as contained under Section 78 of the Coronavirus Act 2020 ("the 2020 Act") and the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ("the 2020 Regulations")

- 2.3.4 The purpose of the Remote Meetings Procedure Rules is to provide the means and guidance for the conduct of any remote meeting of the Council, its various committees and sub-committees, held under the provisions of the 2020 Regulations and should be read in conjunction with the CPR under Part 4 of the Constitution. The 2020 Regulations made under Section 78 of the 2020 Act apply notwithstanding any other legislation or current or pre-existing standing orders or any other procedure rules of the Council governing meetings and remain valid until 7 May 2021. Legislation will be required to extend these Regulations. In the event of any conflict, the Remote Meetings Procedure Rules take precedence in relation to any remote meetings.
- 2.3.5 These Remote Meetings Procedure Rules are to remain in effect whilst or for such period as the 2020 Regulations remain in force

## **2.4. Delegation of Council Functions to Director of Place**

- 2.4.1 The Business and Planning Act 2020 (the “Act”) came into force on 22 July 2020. The Act creates Pavement Licences which allow premises to place removable furniture on the highway. Consideration and determination of Pavement Licences is a Council function. If applications are not determined within 14 days, the licence is deemed to be granted. Deemed licences are only subject to a “no-obstruction” and a “smoke-free seating” condition. Minimal conditions gives the Council less scope for enforcement should complaints be received.
- 2.4.2 Due to the timing of the legislation and the implementation of the powers thereunder, it has not been possible to request support for the recommendation of this delegation from the Audit and Governance Committee and therefore there will be no reference to it in the report which was submitted to that committee on 22<sup>nd</sup> July 2020.
- 2.4.3 To date the Chief Executive’s emergency powers under Section 7, Para 4.1.4 of the Constitution have been used to authorise the Environmental Health Services Manager to consider and determine Pavement Licences and for the Environmental Health Team Services Manager to onwards delegate this function to appropriate officers to ensure applications are dealt with within 14 days.
- 2.4.4 In order to regularise the position an amendment to the Scheme of Delegation is required in order to formally delegate the functions under the Act to the Director of Place for the period that the Act remains in force which is 30<sup>th</sup> September 2021 (unless amended). Council will be notified if the Act is further extended.
- 2.4.5 It is proposed that the Council functions pursuant to the Act be delegated to the Director of Place by way of an additional paragraph 5.3.5 under Part 3 Section 7 (Scheme of Delegation) of the Constitution as set out in Appendix D.

## **3. FUTURE REVIEWS**

Work is currently underway 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”. In addition to this, the Local government Association are currently undertaking a review of the Model Member Code of

Conduct and any changes to the Constitution as a result of this will be brought to the Council in due course.

<b>Policies and other considerations, as appropriate</b>	
Council Priorities:	Supporting Coalville to be a more vibrant, family-friendly town Support for businesses and helping people into local jobs Developing a clean and green district Local people live in high quality, affordable homes Our communities are safe, healthy and connected
Policy Considerations:	None
Safeguarding:	None
Equalities/Diversity:	None
Customer Impact:	None
Economic and Social Impact:	None
Environment and Climate Change:	None
Consultation/Community Engagement:	None
Risks:	As part of its Corporate Governance arrangements, the Council must ensure that Risk management is considered and satisfactorily covered in any report put before elected Members for a decision or action.
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