

Title of Report	ANNUAL REVIEW OF THE COUNCIL'S CONSTITUTION	
Presented by	Councillor Rushton Corporate Portfolio Holder	
Background Papers	The Council's Constitution	Public Report: Yes
Purpose of Report	To explain the outcome of the Monitoring Officer's review of the constitution and present proposed changes	
Recommendations	<p>THAT AUDIT AND GOVERNANCE COMMITTEE</p> <p>1. COMMENT ON AND SUPPORT THE CHANGES PROPOSED BY THE ANNUAL REVIEW OF THE CONSTITUTION</p> <p>2. RECOMMEND THE PROPOSED AMENDMENTS TO THE CONSTITUTION FOR ADOPTION BY COUNCIL AT ITS MEETING ON 7 SEPTEMBER 2021</p>	

1.0 BACKGROUND

- 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 Council to reflect best practice. This report takes a wider look at improvements to the Council's processes and proposes changes to the Constitution to be recommended to Full Council.

2.0 METHOD OF REVIEW

- 2.1 In carrying out the review, officers have been consulted on areas of the constitution that need updating/amending, any areas that have been raised with the Legal Team previously for clarity have been taken account of and any relevant changes in law have

been considered. In addition, the review has also taken account of requests from Members raised through working party discussions.

- 2.2 The entire constitution has been reviewed, including the articles, responsibility for functions, rules of procedure and codes and protocols, but in most cases only minor changes have been made for consistency reasons. This report only sets out the key changes that are being proposed and where appropriate those changes are shown in the relevant extracts in the Appendix.

3.0 KEY CHANGES TO THE CONSTITUTION

- 3.1 The key changes being proposed to the constitution are as follows:

- Removal of outdated definitions and explanations

It was identified that some definitions within the constitution were either out-of-date or no longer in common usage. It was therefore considered appropriate to remove them where they are no longer relevant. There are a few of these and they aren't referenced in the Appendix as it would add to the volume of the report. The Monitoring Officer could make these changes under her delegation to make amendments arising from fact and law but they are mentioned here for completeness. If any member wishes to see these, they can be provided upon request.

- Revised descriptions of Council Functions and Local Choice Functions to provide clarity

The Council gets its powers to do things by statute. The law will set out which functions rest with Council and which need to be retained by Council or can be delegated to committees and sub-committees, which are functions of the executive and which are matters of local choice and which are delegated to officers. The changes proposed make it clearer which functions are Council, executive or local choice. This is important as it makes it clearer to officers, Members and the public which body makes decisions. **See Appendix – pages 1-2**

- Amended the remit of the Planning Committee so that call in only applies to the decisions that it is legally required to

It was identified that certain planning functions were susceptible to call in because of the way in which they were presented in the constitution but they should not legally be and in practice they would never be called in because the applications to which they relate would have long since been dealt with. This has been discussed at the Cross Party Planning Working Group and it was agreed that amendments to the constitution on this point would be appropriate. **See Appendix – pages 3-7**

- Amended the Scheme of Delegation to provide that both Strategic Directors can exercise the powers of the other Strategic Director if that Strategic Director is unavailable for any reason and/or there is other good reason

It was raised that there may be circumstances in which it would be prudent for a Strategic Director to exercise the powers of the other e.g. due to sickness or a

project crossing areas of responsibility. Amendments have therefore been proposed that allow the Strategic Directors to do this. It will mean that each Strategic Director will still have their own delegated powers but the other Strategic Director could exercise one or more of those powers if there was good reason to do so. **See Appendix – page 8**

- Addressed some inconsistencies on the delegation of functions and removed unnecessary duplication

The current scheme of delegation has some duplication of functions where general delegations overlap with more specific ones. To avoid confusion, instances of these overlapping delegations have been removed. As above, there are a few of these and they aren't referenced in the Appendix as it would add to the volume of the report but if any member wishes to see these, they can be provided upon request.

- Updated asset disposal limits to be consistent with Asset Disposal Policy

The current constitution has a delegation to the Strategic Director for Housing and Customer Services to dispose of land up to the value of £10,000 to give effect to the Council's policies and programmes. We are proposing to remove this delegation as both the Strategic Directors and the Chief Executive already have a separate delegation to acquire land of value up to £100,000 and dispose of land up to a value of £30,000. **See Appendix – page 9**

- Increased the number of substitutes available per seat under the Substitute Scheme

It was identified by Members that the availability of substitutes was causing an issue, particularly in relation to Planning Committee where applications cross ward boundaries. It is therefore proposed to double the number of substitutes to be appointed under the Substitute Scheme. **See Appendix – page 10**

There is a separate report on this agenda regarding the appointment of additional substitutions.

- New band of contracts for £25k-50k to enable less formal contracting and can be signed off by officers within their financial authorisations

Currently contracts above £25k are required to be procured under a full tender exercise. Officers consider that for contracts below £50k a full tender exercise should not be necessary and a formal quote process for those contracts between £25k-50k would be more appropriate. The introduction of this new contracts band will give officers greater flexibility to award contracts. Whilst support will always be available from Legal and Procurement where needed, it is no longer compulsory to seek approval and therefore officers will be under greater responsibility to comply with the rules. This process is in line with the Public Contract Regulations 2015 and modern procurement practices. **See Appendix – pages 11-14**

- Authorisation for contracts where the Council doesn't incur costs

The current Contract Procedure Rules make it clear who has authority to sign contracts where they do not incur costs (e.g. if the Council is receiving a grant or

entering into an information sharing agreement) but it doesn't address who has authority to agree entering into them. It is therefore proposed to make this clear and consistent with other agreements that require an authority to enter into them and an authority to sign them. **See Appendix – page 15**

- Introduced Budgetholder as the decision-maker in certain circumstances

The Finance Procedure Rules set out how budgets are managed by Team Managers, however, it is not always the case that budgets are held by them. Consequently, it is proposed to introduce a definition of 'Budgetholders' and make them the decision-maker in such instances. **See Appendix – pages 16-17**

- Amended the Planning Code of Conduct to revise the circumstances in which questions can be asked of speakers at Planning Committee

As a consequence of COVID, the Planning Committee ceased questioning of speakers due to partial remote attendance making this difficult. Following on from this, at the Planning Cross Party Working Group, it was considered whether this should remain and it was agreed that officers would present alternatives to the questioning of public speakers to be included in a revised Planning Code of Conduct. Proposed revisions that limited questioning to factual clarifications in exceptional circumstances through the Chair were presented to the Planning Cross Working Group and no comments were received. It is therefore proposed to introduce these revisions to the Planning Code of Conduct **See Appendix – pages 18-20**

Policies and other considerations, as appropriate	
Council Priorities:	An up to date and modern constitution helps the council to make robust and effective decisions and deliver corporate priorities
Policy Considerations:	N/A
Safeguarding:	N/A
Equalities/Diversity:	N/A
Customer Impact:	The constitution is made available to customers on the Council's website
Economic and Social Impact:	N/A
Environment and Climate Change:	N/A
Consultation/Community Engagement:	The MO consulted and engaged with the Chief Executive, Directors, S151 Officer, other officers, the Leader and Deputy Leader and the Planning Cross Party Working Group
Risks:	An up to date constitution which is reviewed regularly ensures that robust effective decisions can be made by members and officers

Officer Contact

Insert details of the lead officer in the following format:

Elizabeth Warhurst
Head of Legal and Commercial Services
elizabeth.warhurst@nwleicestershire.gov.uk

Kate Hiller
Legal Team Manager
kate.hiller@nwleicestershire.gov.uk