

## NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL – 15 SEPTEMBER 2015

Title of report	<b>UPDATE TO THE COUNCIL'S CONSTITUTION</b>
Contacts	<p>Councillor Nicholas Rushton 01530 412059 <a href="mailto:nicholas.rushton@nwleicestershire.gov.uk">nicholas.rushton@nwleicestershire.gov.uk</a></p> <p>Chief Executive 01530 454500 <a href="mailto:christine.fisher@nwleicestershire.gov.uk">christine.fisher@nwleicestershire.gov.uk</a></p> <p>Head of Legal and Support Services 01530 454762 <a href="mailto:elizabeth.warhurst@nwleicestershire.gov.uk">elizabeth.warhurst@nwleicestershire.gov.uk</a></p>
Purpose of report	To seek Council's approval of the proposed amendments to the Constitution.
Council Priorities	The Constitution covers all the priorities.
Implications:	
Financial/Staff	None.
Link to relevant CAT	Not applicable.
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 Deputy Monitoring Officer	As author, the report is satisfactory.
Consultees	Chief Executive Head of Legal and Support Services Policy Development Group
Background papers	<a href="#">Acquisitions Policy Cabinet 10 February 2015</a> <a href="#">Disposal Policy – Cabinet - 3 March 2015</a> <a href="#">Re-designation of Sheltered Schemes - Cabinet- 16 June 2015</a>
Recommendations	<ol style="list-style-type: none"> <li>1. <b>MEMBERS APPROVE THE AMENDMENTS TO THE CONSTITUTION SET OUT IN PARAGRAPH 3 AND APPENDICES 1-3 OF THE REPORT TO POLICY DEVELOPMENT GROUP.</b></li> <li>2. <b>THAT COUNCIL AUTHORISES THE HEAD OF LEGAL AND SUPPORT SERVICES TO MAKE THOSE AGREED AMENDMENTS TO THE CONSTITUTION AND RE-ISSUE THE DOCUMENT.</b></li> </ol>

## 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**

- 3.1 There are a small number of requests to amend delegations to the Chief Executive and Directors to reflect Cabinet’s decision to adopt an Acquisitions and Disposal Policy on 10 February and 3 March 2015.
- 3.2 The suggested amendments are in the report considered by Policy Development Group on 1 July 2015 and are attached as track changed documents at appendices 1 and 2.
- 3.3 In addition on 16 June 2015 Cabinet considered a report relating to the re-designation of Supporting Housing Properties which recommends that future re-designations are delegated to the Director of Housing in consultation with the Portfolio Holder.
- 3.4 The suggested amendments are attached as track changed documents at appendix 3.

### **4.0 COMMENTS FROM POLICY DEVELOPMENT GROUP**

- 4.1 The draft Council report was considered by Policy Development Group on 1 July 2015. The report is attached at appendix A.
- 4.2 No comments were recieved on the proposed amendments from members of Policy Development Group. A copy of the draft minutes are attached at appendix B.

### **5.0 FURTHER REVIEW OF THE CONSTITUTION**

- 5.1 Members are advised that a further review of the Constitution will be brought to full Council later in the year.

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**POLICY DEVELOPMENT GROUP – 1 JULY 2015**

Title of report	<b>UPDATE OF THE COUNCIL'S CONSTITUTION</b>
Contacts	<p>Councillor Nicholas Rushton 01530 412059 <a href="mailto:nicholas.rushton@nwleicestershire.gov.uk">nicholas.rushton@nwleicestershire.gov.uk</a></p> <p>Chief Executive 01530 454500 <a href="mailto:christine.fisher@nwleicestershire.gov.uk">christine.fisher@nwleicestershire.gov.uk</a></p> <p>Head of Legal and Support Services 01530 454762 <a href="mailto:elizabeth.warhurst@nwleicestershire.gov.uk">elizabeth.warhurst@nwleicestershire.gov.uk</a></p>
Purpose of report	To seek Scrutiny's comments on and recommendation to Council on proposed amendments arising from the Annual Review of the Constitution
Reason for Decision	To comply with the Constitutional update procedure agreed by Council
Council Priorities	It covers all the priorities
Implications:	
Financial/Staff	None.
Link to relevant CAT	Not applicable
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	The report is satisfactory
Consultees	Statutory Officers. Head of Legal and Support Services.
Background papers	<a href="#">Acquisitions Policy Cabinet 10 February 2015</a> <a href="#">Disposal Policy – Cabinet - 3 March 2015</a> <a href="#">Re-designation of Sheltered Schemes - Cabinet- 16 June 2015</a>
Recommendations	<b>THAT POLICY DEVELOPMENT GROUP NOTE AND COMMENT ON THE SUGGESTED AMENDMENTS TO THE CONSTITUTION AND RECOMMEND THEM TO COUNCIL FOR APPROVAL</b>

## 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 CHANGES TO THE CONSTITUTION – ANNUAL REVIEW 2015**

- 4.1 There are a small number of requests to amend delegations to the Chief Executive and Directors to reflect Cabinet's decision to adopt an Acquisitions and Disposal Policy on 10 February and 3 March 2015
- 4.2 The suggested amendments are attached as track changed documents at Appendix 1 and 2.
- 4.3 In addition on 16 June 2015 Cabinet considered a report relating to the Re-designation of Supporting Housing Properties which recommends that future re-designations are delegated to the Director of Housing in consultation with the Portfolio Holder.
- 4.4 The suggested amendments are attached as track changed documents at Appendix 3.

### **5.0 FURTHER CHANGES TO THE CONSTITUTION**

- 5.1 The current constitution was adopted following a review in 2005-2006 since when it has been amended as required in line with the process set out in paragraph 1 and existing delegated authority of the Monitoring Officer to reflect changes in legislation, the organisational structure and changes to delegated powers.
- 5.2 The Monitoring Officer is considering whether it would be opportune to undertake a full review of the constitution (structure and content) to ensure that it reflects best practice.
- 5.3 Should the Monitoring Officer decide that such an approach is appropriate a further report will be brought to Policy Development Group later in the year.

## APPENDIX 1

greater subject to it being within the approved budget for that scheme (see paragraph 4, Budget and Policy Framework Procedure Rules for Urgent Decisions outside the Council's Budget and Policy Framework).

- (v) To sign contracts of a value below £50,000 or some other officer authorised by him or her to do so.
- (vi) To approve jointly with the Section 151 Officer acquisitions of land in respect of their service area up to a capital value of £100,000 per site or with a periodic payment of less than £20,000 per annum in consultation with the relevant Portfolio Holder.
- (viii) To approve jointly with the Section 151 Officer disposals of land in respect of their service area up to a capital value of £50,000 per site in consultation with the relevant Portfolio Holder.

### 4. CHIEF EXECUTIVE

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- (i) To exercise the functions of the Authority's Head of Paid Service under Section 4 of the Local Government and Housing Act 1989 and in this role:
  - (a) to exercise overall responsibility for corporate management and operational issues (including overall management responsibility for all staff);
  - (b) to give professional advice to all parties in the decision making process (the Cabinet, Scrutiny Bodies, the Council, Boards and Committees);
  - (c) to ensure that the Authority has a system of record keeping for all key and executive decisions (a key decision is defined at page 26); and
  - (d) to ensure that the Authority achieves and delivers its objectives; and
  - (e) to represent the Authority on partnerships and external bodies (as required by statute or by the Authority).
- (ii) To co-ordinate, direct and monitor the Authority's initiatives to achieve Best Value in the delivery of its functions.
- (iii) To be responsible for performance review issues.
- (iv) To lead the Corporate Leadership Team.
- (v) After consultation with the Leader of the Council, to authorise action and incur expenditure, where urgent action is needed to enable the Authority to fulfil its functions.

## APPENDIX 2

- (vi) To enter into deeds of dedication on such terms as the Chief Executive sees fit.
- (vii) To agree perpetual and fixed term easements and wayleaves on such terms as the Chief Executive sees fit.
- (viii) To determine rent reviews and to instigate and participate in arbitrations.
- (ix) To agree terms for the surrender of leases.
- (x) To authorise action to determine a lease in the event of rent arrears or other breach of covenant.
- (xi) To agree terms for waiving covenants, whether freehold or leasehold.
- (xii) To approve and issue consents for assignments, sub-lettings, alterations, additions and changes of use.
- (xiii) To make and settle claims for dilapidation.
- (xiv) To appropriate land belonging to the Authority at proper value.
- (xv) To agree the grant and renewal of leases of land and buildings where the annual rental does not exceed £40,000.
- ~~(xvi) To dispose of freehold land where the market value does not exceed £30,000.~~
- (xvii) Following consultation with Asset Management Group, to approve the Asset Management Policy.
- (xviii) In exceptional circumstances acting on advice of the Section 151 Officer and in consultation with the Leader of the Council accept offers for land and property for a value in excess of £50,000 per site. Notwithstanding the above to undertake acquisitions and disposals of land up to a value of £10,000 per site in accordance with and to give effect to the Council's policies and programmes (subject to a report being made to the next available Cabinet meeting setting out the reasons for urgency).
- (xix) To determine applications for discretionary non-domestic rural rate relief following consultation with the ward member(s) for the settlement concerned and the portfolio holder.
- (xx) Subject to those matters reserved for decision by the Licensing Committee, the Licensing Sub-committee and the Taxi and Private Hire Sub-committee, to exercise all those functions for which the Council is responsible concerning licensing and registration and the grant of consents and refusals set out in



## APPENDIX 3

- vi. To represent the Authority and appear as an advocate on the Authority's behalf in any related legal proceedings.
- vii. To serve notice of seeking possession, notice to quit and applying for possession orders.
- viii. To determine applications by tenants to alter their homes.
- ix. To reimburse tenants for tenants' improvements.
- x. To transfer tenancies into joint names and vice-versa.
- xi. To agree mutual exchange.
- xii. To take immediate action to secure the removal of trespassers from housing land and property.
- xiii. To determine the eligibility of applicants to right to buy.
- xiv. To determine the future use of properties, including the redesignation, disposal or demolition of properties and to take such properties out of debit, in consultation with the Portfolio Holder. ~~subject to the approval by Cabinet of such proposals.~~

## 7. HEAD OF LEGAL AND SUPPORT SERVICES

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### (i) Monitoring Officer

To exercise the functions of the Authority's Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.

Whilst changes to the "executive arrangements" within the Constitution may only be changed by resolution of the full Council after consideration of the proposal by the Monitoring Officer, save that 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.

### (ii) Legal Proceedings

Acting on the recommendations of the Chief Executive or the Director (who has been given authority to act on a particular service function in accordance with the Scheme of Delegation) or where it is necessary to give effect to a decision of the Council, to institute, prosecute, defend, conduct, participate in, withdraw or settle any legal proceedings brought by or against the Council, to make any necessary applications and to take steps to enhance or protect the Council's legal position or interest.

## **APPENDIX B**

MINUTE EXTRACT of a meeting of the POLICY DEVELOPMENT GROUP held in the Council Chamber, Council Offices, Coalville on WEDNESDAY, 1 JULY 2015

### **6. UPDATE OF THE COUNCIL'S CONSTITUTION**

The Deputy Monitoring Officer presented the report to Members.

In response to a question from Councillor R Adams, the Deputy Monitoring Officer explained that as part of the full review of the Council's Constitution, the Policy Development Group would receive the report before it was approved by Council and due to the nature of the document, Members would receive a hard copy. The report would be considered by the Policy Development Group in September.

RESOLVED THAT:

The report be noted.

RECOMMENDED THAT:

That Council approve the updates to the Council's Constitution.