

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL – 17 NOVEMBER 2015

Title of report	UPDATE TO THE COUNCIL'S CONSTITUTION
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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 Link to relevant CAT Risk Management Equalities Impact Screening Human Rights Transformational Government	None. Not applicable. 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. Not applicable. Not applicable. 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 Deputy Section 151 Officer	The report is satisfactory.
Comments of Deputy Monitoring Officer	The report is satisfactory.
Consultees	Chief Executive Head of Legal and Support Services Policy Development Group
Background papers	Report to Policy Development Group – 30 September 2015 Minutes of Policy Development Group – 30 September 2015, as Appendix 5 to this report.
Recommendations	<p>1. THAT MEMBERS NOTE THE COMMENTS OF MEMBERS OF PDG AND THE SUBSEQUENT ADVICE FROM OFFICERS AS SET OUT IN SECTION 4 OF THE REPORT:</p> <p>AND</p> <p>2. APPROVE THE AMENDMENTS TO THE CONSTITUTION SET OUT IN SECTIONS 3 AND 5 OF THIS REPORT AND APPENDICES 1 – 4</p> <p>AND</p> <p>3. THAT COUNCIL AUTHORISES THE HEAD OF LEGAL AND SUPPORT SERVICES TO MAKE THE AGREED AMENDMENTS TO THE CONSTITUTION AND RE-ISSUE THE DOCUMENT.</p>

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.

2.2 Policy Development Group previously considered reports on amendments to the constitution on July 1 July and 30 September 2015 the first of which was considered by Council on 15 September. In those reports the Monitoring officer referred to a suite of software which had been developed to assist in the review of constitution which is further detailed at 3.12 below . As a result of the availability of the software package a decision has been taken to undertake a wholesale refresh of the constitution and the progress of that refresh is detailed in the table at paragraph 6.1.

3.0 CHANGES TO THE CONSTITUTION PRESENTED TO POLICY DEVELOPMENT GROUP ON 30 SEPTEMBER 2015

Planning Code of Conduct

3.1 The current Planning Code of Conduct is based on the Probity in Planning document first issued by the Local Government Association in 1997 with a national code issued in 2007. That code was subsequently amended in 2013 to reflect the changes introduced by the Localism Act 2011.

3.2 Whilst the District Council’s Planning Code of Conduct has been amended over the years to reflect changes in guidance and legislation that has occurred on a piecemeal basis, the attached revised code has been subject to a comprehensive review which reflects current best practice and previously agreed local standards.

3.3 A copy of the proposed Planning Code of Conduct is attached as Appendix 1

Changes to Planning Delegations

3.4 The Director of Services has requested that members give consideration to amending a number of existing delegations to improve the efficiency and effectiveness of determining planning applications.

- 3.5 Currently applications for and on behalf of the Council (as a corporate body) for its own development are not referred to Planning Committee unless there is likely to be a major impact or objections have been received.
- 3.6 This is in contrast to applications received from serving Member's and officers and applications from former members, officers and respective co-habiting partners who served the Council in the preceding 5 years. .
- 3.7 The Director of Services proposes that it would be appropriate for the applications defined in paragraph 3.6 above to only be referred to Planning Committee where there is likely to be a major impact and or there have been objections to the application.
- 3.8 A suggested form of wording is attached as Appendix 2

Call-in of Planning Applications

- 3.9 The Director of Services has requested that in order to ensure that planning applications are determined within the government time scales; consideration is given to limiting the extent of the call in provisions contained within the constitution. There have recently been a number of occasions where call in has been requested in the public interest and yet there has been little if any engagement from the public in the subject matter of the application.
- 3.10 The Director considers that it would be beneficial if call-in's under the weekly list procedure are limited to the Ward member whose ward is affected and that any such call in would need to be supported by both planning grounds and the public interest as opposed to the current position where either ground is sufficient.
- 3.11 A suggested form of wording is attached at Appendix 2.

Financial Procedure Rules

- 3.12 The software package referred to in Paragraph 2.2 above also includes an updated set of Financial Procedure Rules which have been reviewed by the Section 151 Officer (Head of Finance).
- 3.13 A copy of the updated rules are attached as Appendix 3 and the Section 151 officer asks members to consider adopting them.

Delegations Arising from Management Changes

- 3.14 The Chief Executive in her role as Head of Paid Service has identified the need for additional support at Director level and Members will be aware of the decision to appoint an interim Director of Resources for a period of 18 months. Members will be aware an Interim Director has been appointed and he commenced his employment with the Council on 2 November 2015.
- 3.15 In anticipation of that future appointment PDG were asked to considered amendments to the Scheme of Delegation to reflect the new senior management structure.

3.16 Subject to the amended scheme of delegation being approved the Monitoring Officer is of the view that a consequential re-ordering and renumbering of the Scheme of Delegation would be beneficial.

3.17 Proposed amendments to the scheme of delegation are attached as Appendix 4.

4.0 COMMENTS FROM POLICY DEVELOPMENT GROUP

4.1 The draft Council Report was considered by Policy Development Group on 30 September 2015. The report is attached as a background paper.

4.2 A number of comments were received from Members of PDG on the proposed amendments.

4.3 As regards the propose amendments to the Planning Code of Conduct a number of comments were made:

i) Concerns were expressed regarding the amendment that required a call in to be supported by one or more planning grounds and also be a matter of local concern whereas previously these grounds for call-in were in the alternative.

ii) It was agreed that the Deputy Monitoring Officer would in conjunction with planning colleagues give consideration to amending the wording to reflect Members concerns. Having considered the matter the Director of Services and the Head of Regeneration and Planning remain satisfied that the proposed wording reflects best practice and do not support or recommend a change, as the amendment is intended to ensure that planning applications are not called in without there being a valid planning ground as applications can only be determined on the basis of planning grounds and not on the basis of local concerns only.

iii) Members also raised concerns regarding the amendment which would restrict call-in to Ward members only as following the move to single member wards there would be occasions when ward members were not available and applications, where there were genuine planning concerns, would fall outside the call-in process. Members requested that consideration is given to extending the call-in to adjacent ward members.

iv) Director of Services and the Head of Regeneration and Planning remain satisfied that limiting call-in to ward Members reflects best practice and do not support or propose any changes to the proposed recommendation.

4.4 A copy of the draft minutes are attached at Appendix 5.

5.0 ADDITIONAL CHANGES TO THE CONSTITUTION

Head of Finance/Section 151 Officer

5.1 At the meeting of PDG a further amendment was suggested to members at the request of the Head of Finance. It was requested that the proposed delegations to the interim Director of Resources were further amended to reflect the statutory role of the Section 151 Office which would bring the wording into line with that relating to the Monitoring Officer.

5.2 It is therefore proposed that the wording in Appendix 4 to the Report to PDG at Paragraph 5.2.15 is amended to read as follows:

Finance, financial planning and procurement (without prejudice to the statutory role and function of the Section 151 Officer)

5.3 Members of PDG made no comment in respect of the proposed amendment.

Planning Delegations

5.4 Following the meeting of PDG the Director of Services has requested that Council consider a further amendment to the planning delegations to ensure that following delegation is only exercised following a site visit. The amended wording is shown below:

(e) The details of an intended delegated decision on any application where material planning representations have been received in conflict with that recommendation have been circulated to the ward councillors concerned and to the Chairman of the Planning Committee,

and

(i) the ward councillor(s) has advised the Director of Services that he/she wishes the matter to be referred to the Planning Committee stating the reason for the request, and has confirmed that request and the reasons for it in writing within 5 working days of the list being sent out,

and

(ii) the Director of Services, in consultation with the Chairman of the Planning Committee having conducted a site visit, decides that the application should be referred to the Planning Committee.

6.0 Further Review of the Constitution

6.1 Members are advised that the review of the Constitution is continuing and further reports will be brought to full Council later in the year. The table below indicates the current progress of the review and the anticipated work streams.

Section of Constitution	Completion Date
Scheme of Delegation to Staff	Council - 17 November 2015
Rules of Procedure: to include a review of the format and style and specifically: Financial Procedure Rules Contract Procedure Rules	Council - 17 November 2015 PDG – 2 March 2016 Council – 22 March 2016
Codes and Protocols: to include a review of the format and style and specifically: Planning Code of Conduct Employee Code of Conduct	Council - 17 November 2015 PDG – 2 March 2016 Council – 22 March 2016