

**North East Derbyshire District Council**

**Annual Council**

**26 May 2015**

<b>Review of the Constitution</b>
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**Report No MO/01/15-16/SS of the Monitoring Officer**

This report is public

**Purpose of the Report**

- To consider changes to the Council's Constitution.

**1 Report Details**

- 1.1 The Constitution is the Council's 'rulebook'. It sets out how the Council operates and how it makes decisions.
- 1.2 Council approved its latest version of the Constitution in October 2014. Since then a number of legislative and internal changes have necessitated a further review. These were considered by Standards Committee on 26 March 2015 and are recommended to this meeting. They are as follows:
- (a) Members have recently agreed to review the names and functions of the scrutiny committees to reflect the emerging Corporate Plan. The new committees are proposed to be known as *Growth, Communities* and *Organisation*. A formal report seeking agreement to these changes is earlier on the agenda.
  - (b) The Public Contracts Act 2015 came into force at the end of February 2015 and the Council's Contract Procedure Rules have been amended accordingly. The new legislation governs all aspects of public sector procurement.
  - (c) The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 came into force on 11 May 2015 and has removed the 'statutory protection' afforded to the statutory officer posts of Head of Paid Service, Section 151 Officer and Monitoring Officer which required the appointment of a Designated Independent Person who made a binding recommendation to the Council on any disciplinary matters brought against those officers. It is now a matter for the Council meeting to decide on the dismissal of a statutory officer having regard to the advice, views and recommendations of a Panel of at least two Independent Persons. These are the Independent Persons appointed under Section 28 of the Localism Act for the purposes of complaints against members under the Code of Conduct.

(d) Local Government (Electronic Communications) (England) Order 2015 has clarified the position with regard to members being summoned to meetings. Members may receive Council summonses by hard copy or by email to a specified address. They may change their minds about method of delivery at any point by notice.

1.2 In addition, the Government is currently consulting on new Functions and Responsibilities Regulations. This legislation will set out whether decisions on a particular issue are a matter for the Cabinet or not. It was initially believed that this legislation would be made before the election but the Government were not able to complete it in time and it remains outstanding. In summary, the proposals are as follows:

(a) With regard to budget-setting, currently Cabinet must refer to Council any proposal which would be contrary to or not wholly in accordance with the approved budget. Under the new proposals once the overall budget is set, subsequent decisions of the Cabinet only need to be brought back to Council if the decision is likely to cause the authority's overall budget envelope to be exceeded or if it is contrary to the authority's borrowing or capital expenditure plans and if it is not authorised by the authority's executive arrangements, financial regulations, standing orders or other rules or procedures. What this effectively means is that the Cabinet will have far more flexibility and freedom to move money between budget heads once the overall budget envelope is set.

(b) Decisions to dispose of or to grant a long lease of an asset where the value exceeds £500,000 are proposed to be a decision for the Council meeting. This is currently a Cabinet function.

(c) Decisions relating to the creation of new parking enforcement areas or parking charges and the frequency of waste collection are proposed to be decisions for the Council meeting. These are currently Cabinet functions.

1.3 The Draft Regulations also set out how new legislation relating to scrap metal licensing, neighbourhood planning, combined authorities and council tax reduction schemes will be addressed.

1.4 A copy of the amended Constitution is attached to this report at Appendix A. A copy of the amended document will be emailed to all members following this meeting and a hard copy is available on request.

## **2 Conclusions and Reasons for Recommendation**

2.1 To ensure the Council has in place a fit for purpose Constitution.

## **3 Consultation and Equality Impact**

3.1 The changes relating to Scrutiny have been consulted on with Scrutiny Chairs and Vice Chairs. This report forms part of the consultation with members on the other issues.

#### **4 Alternative Options and Reasons for Rejection**

4.1 None.

#### **5 Implications**

5.1 The Council is required by law to have in place a fit for purpose Constitution.

#### **6 Recommendations**

6.1 That the revised Constitution attached at **Appendix A** including scheme of delegation be approved.

6.2 Delegated power be given to the Monitoring Officer to make changes to the Constitution arising from any new legislation, administrative errors or conflicts in interpretation.

#### **7 Decision Information**

<b>Is the decision a Key Decision?</b> (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
<b>District Wards Affected</b>	None
<b>Links to Corporate Plan priorities or Policy Framework</b>	None

#### **8 Document Information**

<b>Appendix No</b>	<b>Title</b>
A	Revised Draft Constitution
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None.	
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**Please note:**

Due to the size of Appendix A, and in an effort to save paper, we have not printed a hard copy for every member.

A hard copy is available for inspection on Reception at the District Council Offices. Any member will be sent a hard copy on request to the report author/Governance Team.

Electronic copies of the Appendix are available on the website and on the I-Pad Portal.