

**North East Derbyshire District Council**

**Annual Council**

**9 May 2016**

<b>Review of the Council's Constitution</b>
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**Report No ADGMO/01/16-17/SS of the Assistant Director – Governance & Monitoring Officer**

This report is public

**Purpose of the Report**

- To propose 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. Council approved its latest version of the Constitution at the Annual Council meeting in May 2015.
- 1.2 One of the functions of the Standards Committee is to undertake an annual review of the Council's Constitution to ensure it is up to date and in line with legislation and current circumstances. At its meeting on 9 December 2015, the Committee agreed to set up a Working Group to consider the review. The Working Group was Chaired by Councillor B Ridgway and also included Councillors G Butler and R Welton. Councillor D Ward, a Parish Council representative on Standards Committee, also took part in the Working Group.
- 1.3 The Working Group met on 24 February 2016 and considered a number of proposed amendments to the Constitution which were mostly minor changes including correcting job titles that had changed and other minor errors. The Working Group agreed that any additional technical changes to the Constitution could be discussed through the Chair of the Working Group.
- 1.4 The Standards Committee considered the proposed amendments at its meeting on 20 April 2016.
- 1.5 In addition to the amendments included in these tables, other changes have been proposed that include minor corrections and re-wording to bring the Constitution up-to-date.
- 1.6 A summary of the amendments to the Constitution is attached at **Appendix A** to this report.

- 1.7 A copy of the Constitution with all the proposed amendments shown in red as tracked changes is attached at **Appendix B** to the report. Due to the size of the attachment, a hard copy will be available on Reception at the District Council Offices and another in the Members' Room. Other copies will be available only on request. Electronic copies are available on the website and on the Members' Extranet on the iPad portal.
- 1.8 This year's review has been light-touch and focussed predominantly on updating the Constitution and ensuring that it remains fit-for-purpose and in line with legal and organisational requirements. It is proposed to do a more far reaching review during this municipal year, particularly considering the procedural rules in Part 4 of the Constitution. A further Working Group will be set up later in the year to carry out the review.

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

- 2.1 To ensure the Council has in place a fit for purpose Constitution which complies with English law.

## **3 Consultation and Equality Impact**

- 3.1 The Chief Executive, Chief Financial Officer, Monitoring Officer and Scrutiny Manager have been consulted on the preparation of this document.
- 3.2 An Equality Impact Assessment has not been necessary as part of this review.

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

- 4.1 None.

## **5 Implications**

### **5.1 Finance and Risk Implications**

- 5.1.1 None.

### **5.2 Legal Implications including Data Protection**

- 5.2.1 The Council is required under the Localism Act 2011 to prepare and keep up-to-date a constitution that contains its standing orders, code of conduct, such other information that the Secretary of State may direct and such other information that the authority considers appropriate.

### **5.3 Human Resources Implications**

- 5.3.1 None.

## 6 **Recommendations**

- 6.1 That the revised Constitution, including the Terms of Reference for Committees and the Scheme of Delegation, attached at Appendix A be approved.
- 6.2 That 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 an executive decision 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>	Demonstrating Good Governance

## 8 **Document Information**

Appendix No	Title
A B	Summary of changes to the Constitution 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.	
Report Author	Contact Number
D Cairns	01246 217045

## **Appendix A**

### **Summary of Changes to NEDDC Constitution**

<b>Part</b>	<b>Page No</b>	<b>Section</b>	<b>Summary of changes</b>
2 Articles of the Constitution	18	Article 6 Scrutiny 6.1 Scrutiny Committees	Inclusion of the composition of scrutiny committees of 9 councillors
	21	Article 8 Planning and Licensing Committees 8.1 Planning Committee (a) composition	Removal of the bar to Cabinet Members sitting on Planning Committee
	26	Article 10 – The Chief Executive and Other Staff 10.5 Joint Employment Committee and 10.6 Joint Appeal Committees	Inserting about the membership and functions of the Joint Employment Committee and the Joint Appeal Committees established by Council at Annual Meeting in May 2015.
3 The Functions Scheme	51	5.5 Joint scrutiny arrangements	Correction of the scope of the Shared Services Joint Scrutiny Committee. Removal of reference to Strategic Alliance Review Committee which was never formally established.
	57-59	5.9 Joint Appointments Committee and 5.10 Joint Appointments Panel	Removal of Joint Appointments Committee and Joint Appointments Panel due to establishment of Joint Employment Committee
	58-60	Insert new 5.9 Joint Employment Committee and 5.10 Joint Appeals Committee	Inserting the functions of the Joint Employment Committee and the Joint Appeal Committees established by Council at Annual Meeting in May 2015.

Part	Page No	Section	Summary of changes
	73	10.26 Specific Delegations – Chief Executive Office	Removal of delegation to authorise alcohol exclusion zones Replaced with delegation to authorise the making of Public Space Protection Orders
	73	10.27 Specific Delegations – Chief Executive Office	Power to suspend or revoke a private hire or hackney carriage taxi licence with immediate effect on grounds of public safety.
	74	11.10 Specific Delegations Executive Director – Operations	To approve the Draft Statement of Accounts
4 Procedural Rules	91	Council Procedure Rules Questions by Councillor 9.6 Number of Questions	Insert 'on notice' so that the limit of the number of questions to one per councillor per meeting applies only to questions on notice.
	93	Council Procedure Rules Rules of Debate Content and length of speeches	Amendment to allow members presenting reports of motions on notice to speak for up to 10 minutes.
	104	Petitions Scheme	Removal of reference to e-petitions
	105	Petitions Scheme	Removal of example of Alcohol related crime and disorder due to the powers referred to in the appropriate steps being out-of-date
	107	Petitions Scheme	Change of contact officer in relation to officers being called to give evidence at scrutiny committees to the Scrutiny Manager

Part	Page No	Section	Summary of changes
	119	Scrutiny Rules	Reference to the Cabinet/Scrutiny Protocol
	120	Scrutiny Rules	Amendment to the call-in procedure to apply to Key Decisions only, to reflect best practice and allow more minor decisions of Cabinet and Officers to be implemented without delay.
	124-126	Appendix to Scrutiny Rules - Cabinet/Scrutiny Protocol	Addition of the previously agreed Cabinet/Scrutiny Protocol as an appendix, updated to reflect the Council's current scrutiny arrangements.
	129	Procedures prior to public meetings	Addition of reference to urgent business at committee meetings (for Council, only allowed at Annual meeting).
	142	Budget and Policy Framework	Removal of reference to budget and policy framework decisions being included in the List of Key Decisions.
	143	Budget and Policy Framework - Virement	Clarification of requirement for certain budget heads to be used, in line with the CIPFA Reporting Code of Practice
	147-173	Finance Rules	General amendments to reflect changes in job titles and current best practice with respect to working arrangements and the removal of obsolete functions
	152-159	Finance Rules – Audit	Updating the job titles and the current regulation following the closure of the Audit Commission.
	160	Finance Rules 7. Banking Arrangements	Removal of references to computer produced cheques and the requirement for cheques and payments over

Part	Page No	Section	Summary of changes
		and Cheques	certain limits to be countersigned by the S151 Officer and/or 2 authorised officers
	161-162	Finance Rules 8. Budgeting	Removal of cap of virements between budget heads.
	164-165	Finance Rules 12. Expenditure	Clarification of procedures for seeking competitive quotations and procurement
5 Codes and Protocols	207	Protocol on gifts and hospitality	-Addition of advice for officers to consult their line manager/monitoring officer -Addition of possibility to notify the Monitoring Officer by electronic method
	237-243	Members' Allowance Scheme	Change of dates to 2016 Removal of reference to a pension in accordance with Regulation 11 of Statutory Instrument 1021-2003. Change to the number of Cabinet Members and the number of Scrutiny Committee Chairs and Vice Chair
	244-258	Member Role Profiles	The Member Role Profiles were approved by Cabinet and it was recommended that they be included in the Constitution.

## **Appendix B**

### **Draft Revised Constitution**

#### **Please note:**

Due to the size of Appendix B, 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 iPad Portal.