

North East Derbyshire District Council

Standards Committee

26 March 2015

Review of the Constitution

Report No ADGMO/6/15/MK/SS of the Assistant Director – Governance and Monitoring Officer

This report is public

Purpose of the Report

- To recommend to Council changes to the Constitution.

1 Report Details

- 1.1 The 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 are set out in the paragraphs that follow.
- 1.2 The Council's scrutiny members have recently agreed to revise their names and functions to reflect the emerging Corporate Plan. The new committees will be known as *Growth*, *Communities* and *Organisation*. A formal report seeking agreement to these changes will be presented to the Annual Meeting. Details of the committees' functions are given in Part 3 of Appendix A.
- 1.3 In addition, the Government is consulting on the functions and responsibilities of local authority decision-making bodies. The key proposals are as follows:
 - 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.

- 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.
- 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.

- 1.4 In addition, much new legislation has been passed since 2011 with regard to scrap metal licensing, neighbourhood planning, combined authorities and council tax reduction schemes. The draft Functions and Responsibilities Regulations set out whether these are to be executive or non-executive functions.
- 1.5 As the Functions and Responsibilities Regulations are still in draft, members' permission is sought to update the Constitution once the legislation has been passed.
- 1.6 In addition, new regulations governing public sector procurement came into force at the end of February 2015 and it is envisaged that the Council's Contract Procedure Rules will need to be amended accordingly. The Monitoring Officer and her Deputy are attending training at the end of March. Again, members' permission is sought to update the relevant sections once the legislation has been passed.
- 1.7 Finally, the recent 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. A suitable paragraph has been inserted into the procedure rules (Part 4).

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

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

6 **Recommendations**

- 6.1 To recommend to Council the revised Constitution attached at **Appendix A** including scheme of delegation.
- 6.2 To recommend to Council delegated power to the Monitoring Officer to make changes to the Constitution as required to comply with the Public Contract Regulations 2015 and imminent Functions and Responsibilities Regulations.

7 **Decision Information**

Is the decision a Key Decision? (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
District Wards Affected	None
Links to Corporate Plan priorities or Policy Framework	None

8 **Document Information**

Appendix No	Title
A	Revised Draft Constitution (Available on the website and I-Pad Portal due to size)
Background Papers (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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