

**North East Derbyshire District Council**

**Council**

**25th April 2022**

**REVIEW OF THE CONSTITUTION**

**Report of the Assistant Director of Governance and Monitoring Officer**

Classification: This report is public

Report By: Sarah Sternberg, Assistant Director of Governance

Contact Officer: Sarah Sternberg sarah.sternberg@ne-derbyshire.gov.uk

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**PURPOSE / SUMMARY**

To consider proposed amendments to the Council's Constitution as recommended by the Standards Committee as part of the Annual Review for adoption by Council.

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**RECOMMENDATIONS**

1. That the amendments to the Constitution detailed at Appendix 1 and set out in Appendix 2 be approved
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.

Approved by the Chair of the Standards Committee – Cllr William Armitage

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**IMPLICATIONS**

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**Finance and Risk:** Yes  No

**Details:**

On Behalf of the Section 151 Officer

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**Legal (including Data Protection):** Yes  No

**Details:**

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.

On Behalf of the Solicitor to the Council

**Staffing:**    Yes         No   
**Details:**

On behalf of the Head of Paid Service

**DECISION INFORMATION**

<b>Decision Information</b>	
<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  <b>NEDDC:</b> <b>Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/></b> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>District Wards Significantly Affected</b>	None
<b>Consultation:</b> <b>Leader / Deputy Leader <input type="checkbox"/> Cabinet <input type="checkbox"/></b> <b>SMT <input type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/></b> <b>Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></b>	Yes  Details: The Standards Committee, Monitoring Officer and Deputy Monitoring Officer have been consulted on the preparation of this document

<b>Links to Council Council Plan priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.</b>
Demonstrating good governance.

## REPORT DETAILS

### 1 Background

- 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 April 2021.
- 1.2 The Council is required by law to prepare and keep up to date a Constitution which explains how the Council operates, how decisions are made and the procedures which are to be followed to ensure that these are efficient, transparent and accountable to local people.
- 1.3 Article 1 of the Constitution stipulates that the Monitoring Officer must monitor and review how it is working to make sure it gives full effect to its purpose.

### 2. Details of Proposal or Information

- 2.1 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.
- 2.2 The Standards Committee considered the Review of the Constitution at its meetings on 30 June 2021, 10 October 2021, 26 January 2022 and 23 March 2022 and supported the majority of the amendments proposed. Where support was not given, these changes are omitted for Council consideration. The following areas on the Constitution and related procedures have been reviewed during 2021/22:
  - Questions by Members to Meetings of Council
  - Debt Write Off Limits
  - Proper Officer Provisions in respect of Public Health
  - New TORs for JSCC
  - Review of the Guidance and Constitutional Rules on Public Speaking at Council.
  - Training Requirements for Councillors
  - Renumbering of the Articles
  - Delegation Scheme – Property Sale
  - Petitions Scheme
  - MO Delegations
  - Clarifications on Delegations Scheme in relation to ACPA 20112
  - Planning and Licensing Decisions (rejected)
  - Delegations for Officers in Acting-Up Positions
  - Renaming of the JEAC to the EAC
  - Licensing Sub-Committees
  - Delegations in relation to the Management Agreement with Rykneld
  - Housekeeping Changes (such as formatting and job titles)

- 2.3 Each of the areas of review, other than the housekeeping changes, has been set out in detail, including the rationale for the amendments proposed and the agreement and comment of the Standards Committee in **Appendix 1**.
- 2.4 All of the amendments have been entered into the Constitution at **Appendix 2**. The amendments appear in red as 'tracked changes'. Where Terms of Reference have been reviewed, but not for incorporation in to the Constitution, these are attached at **Appendix 3**.

*Due to the size of the Appendix 2, a paper copy has not been issued to Members. The document is published on the Council's website and is accessible to Members on their iPads.*

### **3 Reasons for Recommendation**

- 3.1 The Standards Committee with support from the Monitoring Officer and Deputy Monitoring Officer have carried out the review with a particular focus on certain areas of the Constitution that required attention. These areas have been thoroughly discussed and the amendments proposed are recommended to Council for approval.
- 3.2 It is required by law to keep an up to date constitution. Part of the role of the Standards Committee is to review the document on a regular basis to make such recommendations to Council as necessary.

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

- 4.1 The Council may make other amendments or reject the amendments proposed as part of this review, however the rationale for each proposal has been to ensure the Council's procedures comply with the law, are in line with best practice, are practical and up-to-date, as well as in accordance with other decisions taken by the Council. No alternative options are therefore proposed.

## **DOCUMENT INFORMATION**

<b>Appendix No</b>	<b>Title</b>
1	Summary of Amendments to the Constitution
2	Tracked Changes to the Constitution
3	Terms of Reference
4	DD of Constitutional Changes made by the MO under her delegated powers.
<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 you must provide copies of the background papers)	
None.	