

Area of Review	Proposal and Rationale	Sections of the Constitution
Meeting of 30th June 2021		
Questions by Members	<p>There is no provision within the constitution for a Councillor to withdraw a question which has been submitted, accepted and published. Referring to section 9 with the Council Procedure Rules the Constitution is silent on this scenario – however, Chair’s discretion has been used on this matter twice over the previous two years. This matter has been referred to the Standards Committee to agree clarity by adding a 9.10 to page 80 of the May 2021 Constitution.</p> <p>9.10: <i>Withdrawal of Questions</i></p> <p><i>A question which has been accepted and published may be withdrawn by the Member who asked it provided that they indicate this in writing to the Monitoring Officer and the Member to which the question has been asked not later than 24 hours in advance of the meeting.</i></p>	Council Procedure Rules Adding in 9.10.
<p>The Committee was asked to consider a change to the Constitution which would provide provision for Members to withdraw a question which had been submitted, accepted and published, up to 24 hours in advance of the meeting.</p> <p>Committee had a discussion over the proposed time limit and decided that it would be more appropriate to allow Members to withdraw a question at any point up to the morning of the same day on which the meeting was due to take place. This would all for greater flexibility prior to the meeting.</p> <p><u>RESOLVED</u></p> <p>(1) That the deadline for submitted, accepted and published questions to withdrawn would be on the morning of the same day that the meeting is due to take place.</p> <p>(2) That the proposal be approved and submitted to Council.</p>		

<p>Debt Write Off</p>	<p>There have been challenges within the last 12 months in regard to write off of debt, and gaining the necessary approval in order to action this process. 12.6 of the Council's delegation scheme authorises the S151 officer to write off debts up to £3,500, and larger debts are referred to the Cabinet for approval. It is suggested that this limit is increased, with a caveat that all debt sign off is undertaken in consultation with the Portfolio Holder for Finance. This would amend 12.6 as follows:</p> <p>After consultation with the relevant Portfolio Holder to authorise the write-off of bad debts up to an approval limit of £7,500. Larger debts will be included in a report for information to the Executive/Cabinet.</p>	<p>Scheme of Delegation 12.6</p>
<p>The Committee was asked to consider a change to the Constitution that would increase the limit of bad debts that could be written off from £3,500 to £7,500.</p> <p>Members heard that the proposal had not been through the Audit Committee but that the Section 151 Officer had been consulted.</p> <p>There was a consensus that the limit should be increased to £5,000 rather than the proposed £7,500.</p> <p><u>RESOLVED</u> –</p> <p>(1) That the limit of bad debts able to be written off be increased from £3,500 to £5,000.</p> <p>(2) That the proposal be approved and submitted to Council.</p>		

<p>Delegation Scheme Amendments</p>	<p>There are some statutory matters which are missing from the Proper Officer provisions within the Scheme of Delegation. Provisions required for the notification and control powers from transmissible diseases which are given to Proper officers within:</p> <p><i>Public Health (Control of Disease) Act 1984</i></p> <p><i>S11, 18, 20, 21, 22, 24, 29, 31, 36, 40, 42, 43 and 48</i></p> <p><i>Public Health (Infectious Diseases) Regulations 1988</i></p> <p><i>Regulations 6,8,9,10</i></p> <p>Sch 3 and 4</p> <p>As these are in statute, it is just a matter of governance to ensure that they are documented within the Constitution. With Standards Committee approval, these will be added under The Monitoring Officer's delegation</p> <p>13.20 To make appropriate changes to the Constitution arising from any new legislation, administrative errors or conflicts in interpretation.</p>	<p>Proper Officer Provisions</p>
<p>The Committee was asked to consider a change to the Constitution that would add some missing statutory matters into the Proper Officer Provisions within the Scheme of Delegation.</p> <p>Members heard that the statutory matters related to provisions required for the notification and control powers from transmissible diseases which are given to Proper Officers within the Public Health (Control of Diseases) Act 1984 and Public Health (infectious Diseases) Regulations 1988.</p> <p>The Proper Officers would use these powers and act upon Government instruction.</p> <p><u>RESOLVED</u> – That the proposal be approved and submitted to Council. Delegated Decision attached as Appendix 4</p>		

<p>New JSCC TORs</p>	<p>It is commonplace for Local Authorities to have a formally established consultation committee involving unions, staff representatives, elected members and senior management to consider working arrangements, service provisions and operational and policy matters. The authority currently operate a working group to give consideration to these matters – the Joint Consultative Group.</p> <p>There are a number of informal meetings that are designed to troubleshoot specific service matters, and by formalising the JCG to a Committee, there is a structure for escalation and decision making. The informality of the JCG leads to some challenges, which can be resolved through better governance arrangements providing support to both the staff and management sides.</p> <p>It is proposed that the JCG be disestablished and replaced by a formal JSCC which will comprise of a slightly altered Membership. However the changes to Membership are not the reasons for change. ‘Sides’ are no longer mentioned in order to create a committee of persons working together to decide on and resolve issues.</p> <p>By formalising this meeting, the discussions that take place within will also become more formal. With many other options for informal discussions, it is felt that a structured public meeting would give create a more strategic environment from which to address concerns.</p> <p>The use of reports to be written for each item of business will provide decision makers with a rounded context of the matters before them, and these reports will be published within legal deadlines.</p> <p>The Committee will therefore provide a fora through which formal decisions can be made, and matters can be escalated effectively from its sub-meetings. The Health and Safety Sub Group, will report in to this meeting and the minutes will be considered as part of the formal agenda.</p>	<p>Committee Structures and TOR</p>
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	The JCG have been consulted, however there is one principle matter which requires resolution. Should the issue be dealt with, the proposal will be to take a report to Council to establish this committee with the terms of reference as circulated in the meeting.	
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The Committee was asked to consider the Terms of Reference for the proposed JSCC which would replace the JCG.

“Sides” were no longer mentioned in order to create a committee of persons working together to decide on and resolve issues. The proposed Committee would also include non-Union staff for representation to reflect the views of the workforce as a whole.

Formalising these meetings would also allow for decision makers to have a rounded context of matters before them through accurate reports published within legal deadlines.

The JCG had previously been consulted and had no major concerns with the proposed arrangements. Some concerns were raised by Unison which would be considered and reported through Council if required.

RESOLVED – That the proposal be approved and submitted to Council.

This has not yet been entered in the constitution as this matter continues to be discussed. The TOR are attached as Appendix 3.

Meeting of 10 th October 2021		
Review of the guidance and constitutional rules on public speaking at Council	<p>The guidance and rules on public speaking at Council have been reviewed.</p> <p>A revised version of the Council Procedure Rules and the guidance will be circulated before the meeting.</p>	<p>Part 4 Council Procedure Rules</p> <p>Pages 72 – 92 (of May 2021 edition)</p>
Training requirements for Councillors	<p>The essential training schedule, as set out in the Members' Code of Conduct, is attached at Appendix 2 in order for the Committee to determine whether it wishes to make any changes.</p>	<p>Members' Code of Conduct</p> <p>Pages 176, 186-188 (of May 2021 edition)</p>
Renumbering of the Articles	<p>On examination of the articles within the constitution, editing over time has created gaps in numbering, leaving 9 of the original 12 articles. It is suggested that these be renumbered and re-referenced throughout the document without changing the agreed wording at this stage. This will be completed under the MO's housekeeping delegation.</p>	<p>Whole Constitution</p>
Delegation Scheme – Property Sale	<p>There is an existing executive function (page 33 (y)) allowing approval of purchase, sale or appropriation of land and buildings over £50,000. There are circumstances where purchase, sale or appropriation may be required and is already in line with the acquisition and disposal policy. In instances when proposals are put to Cabinet this is an administrative process that instigates a DD to be undertaken delegating authority on a case by case basis.</p> <p>The proposal is that an addition delegation be added to the Director of Environment and Enforcement (further delegated to the Head of ED, Regen and Housing Delivery) [job titles and reporting lines determined through the SMT review and subject to the temporary arrangements in place for the delegation scheme] as follows:</p>	<p>Delegation Scheme</p> <p>Page 58 of current edition.</p>

	11.12 (inserted, renumbering below): (further delegated to Head of Economic Development, Regeneration and Housing Delivery) Agreeing property transactions in line with the Acquisition and Disposal Policy in consultation with the relevant Portfolio Holder.	
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The Governance Manager presented a report which outlined a list of areas for review within the Council's Constitution for consideration by the Standards Committee prior to submission as part of the Annual Review of the Constitution to Council for adoption.

Members heard that there were four areas being considered. These were; Review of Guidance and Constitutional Rules on Public Speaking at Council; Training Requirements for Councillors; Renumbering of the Articles and; Delegation Scheme – Property Sale.

Members were also shown the essential training schedule should they wish to make any alterations.

Members discussed the review of the constitution and inquired as to a right of appeal under section 9.2 of the Council Procedure Rules. Committee heard that there was no formal right to appeal but the Monitoring Officer would accept and look into each argument on a case by case basis.

RESOLVED – That the Committee gave consideration to proposals for review and supported the submission of proposals to Council as part of the Constitution Review at a future meeting.

Meeting of 26 th January 2022		
Petitions Scheme	<p>The petitions scheme has been reviewed and largely it is considered to remain fit for purpose. One change is proposed as follows:</p> <p>Remove the following exclusions from the petition scheme –</p> <ul style="list-style-type: none"> • Any matter which is currently or imminently subject to a consultation exercise. • Any matter which is subject to a statutory consultation exercise, such as the Local Plan or other local development plan documents. <p>And replace with:</p> <ul style="list-style-type: none"> • Where any matter is currently or imminently subject to a consultation exercise, a decision as to whether the Petition can be dealt with under the Council's Petitions Scheme will be made by the Head of Paid Service having received the advice of the Monitoring Officer on the matter. 	Part 4, Petitions Scheme. Pages 93-97
Monitoring Officer Delegations	<p>It has been requested that Designation of Neighbourhood Areas be a delegated function to the Monitoring Officer as this is a procedural matter. This would add a delegation:</p> <p>NEW 13.22 To designate Neighbourhood Areas in consultation with the Portfolio Holder for Environment.</p>	Part 3, Scheme of Delegation for Officers Page 60
Clarifying how the Delegation Scheme is applied in relation to Part 4 of the ACPA 2012.	<p>The Monitoring Officer utilised her delegated power to amend the constitution to provide clarity in its interpretation. The current wording within the Director of Environment and Enforcement's delegation 11.13 had become unclear, and to avoid any legal challenge to an order under Pt 4 of the Anti-Social Behaviour, Crime and Policing Act 2014 it was prudent to ensure that the words of the delegation were express to avoid misinterpretation. The associated Delegated Decision is attached for information as APPENDIX 4.</p>	Part 3, Scheme of Delegation for Officers Page 58

The Governance Manager presented a report that considered a list of areas for review within the Council's Constitution for consideration by the Standards Committee prior to submission as part of the Annual Review of the Constitution to Council for adoption.

The areas included for review were the petitions scheme, planning and licensing decisions, Monitoring Officer Delegations and clarification on how the delegation scheme was applied in relation to Part 4 of the ACPA 2012.

Members discussed the areas for review and agreed that the planning and licensing decisions should be deferred until after a time when the views of the Chair of the Planning Committee could be considered.

RESOLVED – That the Committee gave consideration to proposals for review and supported the submission of the proposals to Council as part of the Constitution Review at a future meeting with the exception of the Planning and Licensing Decisions which would be deferred until the views of the Chair of Planning Could be considered.

Meeting of 23 March 2022

Planning and
Licensing Decisions

Council Procedure Rule 13.2 applies to Committees as well as Council and prohibits a motion or amendment to one similarly rejected being moved (lacking notice) without signature of one third or more of the Councillors appointed to that committee. When applied to Planning and Licensing Committees an issue has arisen whereby through the course of debate on applications a motion is put forward and rejected to both approve and deny planning permission or a licensing application. This could be for varying reasons, but the outcome would be that in order to decide the application suspension of council procedure rules needs to be employed as set out in CPR 23. As suspension of rules without notice requires half of the Councillors there present to agree, it becomes confusing for the public and elongates an already convention-heavy procedure.

It is therefore proposed that both in respect of applications heard by either Licensing or Planning Committee that this rule should no longer apply. If Members were so minded to agree the amendment would be as follows:

New CPR 24. 2 – CPR 13.2 does not apply to applications heard by either the Planning or the Licensing Committee. It does apply however to all other decisions taken by those committees.

The feedback from Planning Committee was divided with some feeling that this issue does not arise often, and therefore it was not a major concern for them, with others considering that removal of this provision conflicts with transparency. It is therefore with Standards Committee to debate. A decision will be required on maintaining status quo or to apply the suggested change.

REJECTED

Part 4.1 Council Procedure
Rules
Page 72-91

<p>Clarification of Deferment and Adjournment</p>	<p>CPR 12.11(d) requires clarification from the Monitoring Officer. When a motion that the debate be now adjourned is carried, the discussion shall be resumed at the next meeting, when the Member who moved its adjournment shall be entitled to speak first. This applies to all working groups and committees. Adjournment of a debate is often referred to as 'deferred' by Members, however deferral only applies where an item of business has not been debated. Deferral means withdrawal before commencement of discussion so that the item can be debated at the next available meeting, not a partial debate to be continued at a later time. Adjournment requires a date specified to recommence. Where this is not specified it should be automatically taken to the next meeting of Council or that Committee.</p> <p>In order to ensure this rule is applied correctly the following amendments are made:</p> <p>New 12.11(e) When a motion that the debate be now adjourned is carried, the discussion shall be resumed at the next meeting, when the Member who moved its adjournment shall be entitled to speak first.</p> <p>Footnote clarification *Members may use the term 'defer', however in the context of a debate commenced this is classed as 'adjournment'.</p> <p>The feedback from Planning Committee was that they saw no issue in this rule being applied unilaterally across all Committees and Council. The additional wording suggested above just provides clarity to avoid challenge to the Planning Committee process. Options relating specifically to Planning Committee can be considered, and the committee wished to remain open to these. In the meantime, this rule is the existing provision and suggestions may be forthcoming to refine the Planning Committee process in the new municipal year.</p>	<p>Delegation Scheme Page 52.</p>
<p>Delegations for Officers in Acting-Up Positions</p>	<p>The current delegation scheme does not make express provision for cover arrangements for senior positions where an officer is formally on an 'Acting Up' agreement. This creates confusion as to whether an officer in that position may</p>	<p>Delegation Scheme Page 52.</p>

	<p>formally utilise the delegated powers, and could bring any decisions made during the 'Acting Up' period in to question.</p> <p>For clarity, Acting Up is a formally agreed HR procedure whereby an officer is temporarily promoted for a set period of time, usually to cover an extended absence or vacancy. This is a contracted arrangement. It would only be relevant to the delegation scheme whereby this is employed for a post of Assistant Director or Director.</p> <p>For the 3 Statutory Roles, these are always covered, as HOPS, S151 and MO duties are always assigned to deputies during periods of absence or leave and are discretionally utilised only if absolutely necessary.</p> <p>It is suggested that a new 6.4 is created in the delegation scheme (changing the numbering of that section) to provide that:</p> <p>6.4 An officer in a formal 'Acting-Up' arrangement may utilise the powers delegated to the post that they are covering for the specified period of that contractual agreement.</p>	
JEAC	<p>The Joint Employment and Appeals Committee was established to consider Joint positions with Bolsover District Council. In light of recent changes, it is appropriate now for the emphasis to be on North East Derbyshire only positions.</p> <p>This would require re-naming the Committee to the Employment and Appeals Committee (dropping the Joint) but retaining all other responsibilities and to have the same composition.</p>	Functions Scheme Pages 46-47
Licensing Sub-Committees	<p>S9(1) of The Licensing Act 2003 prescribes that '<i>a Licensing Committee may establish one or more sub-committees consisting of 3 members of the Committee</i>'. Currently our Sub-Committees have 5 Members appointed on the rationale that the quorum is three and a conflict may arise which prohibits attendance. Less than five members would make meetings vulnerable to last minute cancellations. However</p>	Functions Scheme Page 40-45

	<p>rational the rationale for these appointments, it doesn't strictly comply with the legislation, and the Monitoring Officer has advised that we should revert to 3 Member Sub-Committees.</p> <p>There are no further Licensing Sub-Committees this year, and therefore there is no immediate action to be taken.</p> <p>To mitigate Members concerns from previous discussions on this matter, we have adjusted the committee timetable to take account of a regular need for sub-committee meetings and these dates will be published for all Licensing Committee members to reserve in their diaries. The Chair of Licensing is aware of the situation and the suggested remedy and may wish to speak to the committee on this matter.</p>	
<p>Delegations in relation to the Management Agreement with Rykneld</p>	<p>Cabinet, at its meeting on 29th July 2021 approved the draft Management Agreement with Rykneld Homes. As part of that agreement, delegations to officers were agreed to be put to the Standards Committee for inclusion in the delegation scheme. These are listed below for consideration:</p> <ol style="list-style-type: none"> 1. That the Director of Growth and Economic Development be given delegated authority in consultation with the Portfolio Holder for Housing, the section 151 Officer and the Monitoring Officer to make changes to the agreement both before the final version is agreed and when signed. 2. That the Director of Growth and Economic Development be appointed the Council's Senior Representative under the Management Agreement and is given delegated authority in consultation with the Portfolio Holder for Housing to make decisions required by the Management Agreement by the Senior Representative. 3. That the Head of Economic Development, Regeneration and Housing Delivery be appointed the Council's Contract Manager under the Management Agreement and is given delegated authority to make decisions required by the Management Agreement by the Contract Manager. 	<p>Delegation Scheme Page 52.</p>

The Governance Manager presented a report to Committee in order for them to consider the list of areas for review within the Council's Constitution for consideration by the Standards Committee prior to submission as part of the Annual Review of the Constitution to Council for adoption.

Members noted that after having considered the proposed amendment that "New CPR 24. 2 – CPR 13.2 does not apply to applications heard by either the Planning or the Licensing Committee", Planning Committee were divided on the issue. Some Members of Planning Committee believed that this issue arose so rarely that it was not of major concern, whereas other members considered that the removal of this provision would conflict with transparency.

Standards Committee considered that as this issue arose only in rare occasions that the status quo should be maintained.

Members considered the clarification of deferment and adjournment and noted that the feedback from the Planning Committee had been that they saw no issue in this rule being applied unilaterally across all Committees and Council. The additional wording suggested would provide clarity and avoid challenge to the Planning Committee process.

Standards Committee agreed that the amendments related to the clarification of deferment and adjournment should be made.

Committee had a lengthy debate over the proposals to reduce the number of members on the licensing Sub-Committee from five to three in order to comply with the legislation.

Members considered that it would be beneficial to summon five members to the meeting to account for any potential last minute disruptions or absences. With this in mind, it was considered that the Sub-Committee should comprise of three members with an additional two substitute members.

RESOLVED – That Committee gave consideration to proposals for review and supported the submission of the proposals to Council as part of the Constitution Review at a future meeting