

APPENDIX 1 Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
Standards Committee Terms of Reference	<p>In response to the Standards Committee’s consideration of the recent Parliamentary Committees Review into Standards in Public Life, a revised Terms of Reference (TOR) was presented for consideration. The revised version of the TOR included:</p> <ul style="list-style-type: none"> • Inviting Co-opted representatives to sit on the Committee; • Having an over-sight of Member training and attendance; • Website content; and • Promoting understanding of the code of conduct. 	Part 3 – Functions Scheme Appendix 1 – Committee Terms of Reference 5. Standards Committee Page 43-44
Joint Employment & Appeals Committee	<p>The current Terms of Reference for the Joint Employment and Appeals Committee did not make any reference to a scenario where one singular Authority may need to undertake a recruitment for an SAMT member who would work solely for that Authority.</p> <p>The proposed following wording would be added to the Joint Employment and Appeals Committee Terms of Reference for North East Derbyshire only posts:</p> <p><i>‘Where the authority determines to recruit a Head of Service or Director post outside of the Strategic Alliance or determines to</i></p>	Part 3 – Functions Scheme Appendix 1 – Committee Terms of Reference 7. Joint Employment and Appeals Committee Page 45-46

	<p><i>take any disciplinary action in relation to such a post the Member Panel will be called the Employment and Appeals Committee and will comprise the four members of the JEAC’.</i></p>	
<p>Questions and Motions</p>	<p>At its meeting on 19 September 2019, Standards Committee considered whether there should be any changes in relation to Part 4 of the Constitution – Council Procedure Rules. In its analysis, the Committee compared the Authority’s rules with that of five neighbouring Authorities.</p> <p>The Committee agreed that the following changes should be made:</p> <ul style="list-style-type: none"> • Adding ongoing complaints to the scope for rejections of public questions; • Replicating the scope for public questions for questions on notice by Councillors; and • Introducing a limitation of one motion per Member per meeting to replicate the limits on questions. 	<p>Part 4 – Council Procedure Rules</p> <p>Rule 8. Questions by the Public</p> <p>Rule 9. Questions by Councillors</p> <p>Rule 10. Motions on Notice</p>
<p>Delegation Scheme authority to implement legal changes.</p>	<p>From time to time, there are changes in legislation, government guidance or other regulatory changes that impact on Council policies. Currently, all such changes must be brought to Cabinet or Council for approval (depending on the nature of the policy) even though in the vast majority of these</p>	<p>Part 3 – Functions Scheme</p> <p>Scheme of Delegation to Officers</p> <p>9. General powers delegated to all Strategic Directors and Heads of</p>

	<p>cases, there is no discretion for Members and the amendments must be accepted.</p> <p>This can prove difficult where changes must be implemented within a short timescale and cannot practically be reported to Members in time. It is therefore proposed that the power to make amendments to policies be delegated to Directors and Heads of Services in the Delegation Scheme.</p> <p>Where there is any discretionary element to the changes or the impact of the changes in legislation etc. are significant, these can still be reported to Members.</p> <p>The proposed wording of the delegation is:</p> <p>To make amendments to Council policy, subject to consultation with the Monitoring Officer, in order to:</p> <ul style="list-style-type: none"> i) reflect changes in the law, government or regulators' guidance, and other Council policies; or ii) correct obvious, technical or clerical errors and to take account of changes of any names or titles. 	<p>Service - page 49 of the current version.</p>
<p>Time limits for Questions and Motions to Council.</p>	<p>Currently, the deadline for all of these is midday 7 clear working days before the day of the meeting. This gives very little preparation time for those who have to answer the questions or those who want to participate in the motion debate.</p>	<p>If Members wish to change the deadlines this would mean an alteration 9.3 and 10.1 of the Council Procedure Rules (CPR) and the addition of the following:-</p>

Accordingly it is being suggested that the deadline is extended. The suggestions is that the deadline could be extended by either 5 working days or 10 working days. This would operate as follows in terms of the February, March and April Council meetings:-

17 clear days	22/1/20	5/2/20	23/3/20
12 clear days	29/1/20	12/2/20	30/2/20
Current deadline of 7 clear days.	5/2/20	19/2/20	6/4/20
Agenda Despatch	7/2/20	21/2/20	8/4/20
Council Meeting	17/2/20	2/3/20	20/4/20*

*Affected by Easter

The table shows what extending the deadline by 5 and 10 clear days does to timescales. This would be accompanied by a change requiring the distribution of questions and motions to members to occur immediately after the deadline for submission.

The Committee agreed to extend the deadline for questions and motions to 12 clear days.

9.3 (c) details of questions submitted by Councillors on notice will be circulated to Cabinet immediately after the deadline has passed.

And add to the end of 10.1 :-

Details of motions submitted by Councillors on notice will be circulated to the Cabinet immediately after the deadline has passed.

<p>Access to Information – Member attendance during exempt items of Cabinet</p>	<p>The Council Procedure Rules make provision, at rule 24.3 for Members who are not appointed to the relevant Committee or Sub-Committee to remain in a meeting of that Committee or Sub-Committee during the private session considering exempt items, unless the Committee or Sub-Committee ask them to leave.</p> <p>This rule has in practice been applied to Cabinet, although technically this is not a Committee. It is therefore proposed in the interests of clarity, that the term Cabinet be added to the wording of this rule.</p>	<p>Part four – Council Procedure Rules, Section 24.3</p>
<p>Reserves – approval of Transformation Reserve</p>	<p>At the present time there is a specific delegation to the Section 151 Officer to approve expenditure from this Reserve. This was agreed so that expenditure from the Reserve could be properly monitored and recorded but also so that relatively minor expenditure as part of the Transformation Programme would not be delayed by the need for a formal Cabinet decision.</p> <p>However it is not necessary for the delegatee to be the Section 151 Officer. The Section 151 Officer needs to be aware of expenditure from this Reserve and we need to make sure the system so informs her. However the actual decisions come through the governance structure set up to deal with Transformation Programme projects. It would be the Transformation Governance Group (TGG) (which</p>	<p>Delegation Scheme – 12 Head of Finance and Resources and Section 151 Officer number 12.10.</p> <p>This delegation to move to the Director of Corporate Resources and Head of Paid Service.</p> <p>Delegated Decisions relating to Invest to Save Projects to be initialled by the Section 151 Officer to evidence that she has seen them.</p> <p>The Budget and Policy Framework Rules number 5(b) needs amending to refer to the Director of Corporate Resources and Head of Paid Service.</p>

	<p>includes Members) that would decide to progress a project not the Section 151 Officer.</p> <p>This can be achieved by amending the delegation and transferring the delegation to the Director of Corporate Resources and Head of Paid Service with an additional requirement that the Section 151 Officer not only has to see the proposal but initials the Delegated Decision form (DD form) to evidence that she has been consulted.</p>	
Reserves – approval of expenditure from Reserves	<p>It has always been the case that expenditure from Reserves are agreed by the Cabinet in a formal decision. This used to be in the Constitution but for some reason was removed.</p> <p>There needs to be a decision route for expenditure from the Reserves – for openness and transparency reasons. It is suggested therefore that this is put back into the Constitution to make the position clear.</p>	<p>Cabinet functions in Part 3 of the Constitution includes at point (g) in year decisions. This could be amended as follows, with changes being shown in bold:-</p> <p>(g) Take in-year decisions on resources or priorities including the use of reserves together with other stakeholders and partners in the local community, to deliver and implement the Policy and Budget Framework</p>
Small increases in expenditure and effect on the Council’s Budget	<p>From time to time changes are made to the way services are provided to make them better. Sometimes this has no cost. If the cost is significant, then a report is taken to Cabinet. Sometimes, however, the cost increase is very small. As the rules stand at the moment, even a small</p>	<p>Delegation Scheme – 12</p> <p>New 12.12</p>

	<p>increase in budget requires formal member approval through Cabinet. So Cabinet could be considering a report that involves a very small increase.</p> <p>It is felt that these decisions would be better done by a Delegated Decision (a DD). This would ensure transparency (a formal decision is recorded) whilst still involving members (the Leader and/or Deputy Leader and/or Portfolio Holder have to be consulted in every delegated decision but give a faster route and avoiding Cabinet dealing with minor increases.</p> <p>Clearly the Section 151 Officer needs to be able to exercise control over this and stop costs spiralling out of control. It is therefore suggested that a new delegation is given to the Section 151 Officer to cover small increases in budgets.</p>	<p>To authorise small increases in individual budgets of up to £10,000 per budget on one occasion in any corporate year subject to a delegated decision notice being produced.</p>
<p>Council Procedure Rules Rule 8 Questions by the public</p>	<p>A review of our neighbouring authorities has shown that they all allow any member of the public to ask questions at council so long as they meet the scope.</p> <p>North East Derbyshire District Council restricts whom may ask questions as “Members of the public who are on the Register of Electors for or who are Non Domestic Rate Payers to the district”.</p> <p>Concern was raised that some whom have a connection to the district may not qualify to ask a question under this current regime and consideration was given to whether this should be</p>	<p>Part 4 Council Procedure Rules 8 – Questions by the Public 8.1 General - page 71 of the current version.</p>

extended to include those who have a “Local Connection” to the district.

For the purposes of Housing the Housing Act 1996 defines that a person has a local connection to a district if

1. (a) they are, or were in the past, normally resident there, and that residence was of their own choice; or,
2. (b) they are employed there; or,
3. (c) they have family associations living there; or,
4. (d) of any special circumstances.

The committee could accept that anyone can ask a question as the current scope limits this to a matter which is one the Council “has a responsibility or which affects the district.” This restriction would ensure that whomever asked a question could only do so if it genuinely affected the district.

The proposed wording of the amended rule 8.1 (a) is

~~Members of the public who are on the Register of Electors for North East Derbyshire District Council, or who are Non Domestic Rate Payers to District,~~ may ask questions of members of the Cabinet at ordinary meetings of the Council.

MATTERS YET TO BE PRESENTED TO STANDARDS COMMITTEE		
Strategic Alliance Joint Committee	<p>That this Joint Committee is not established this year or in future years.</p> <p>There is no longer a need for this Joint Committee.</p>	Part 3 – remove terms of reference from this part plus any other references,
Annual approval of Meetings Schedule	<p>To move responsibility for this to the Council.</p> <p>Currently the Cabinet determines the Calendar of Meetings annually. The proposal is that this will be dealt with by the Council. It is a matter of good practice that this be decided by Council. The Schedule provides the meeting times and frequencies for all the Committees as well as Council itself.</p>	<p>In Part 3 of the Constitution move:</p> <p>(zn) Determine the calendar of meetings annually and make any subsequent amendments throughout the period subject to 4.1 of the Council Procedure Rules.</p> <p>To the Council functions section.</p> <p>NB 4.1 allows the Chair to alter the time or place of meetings before the summons is sent.</p>
Delegation Scheme	<p>Following the management restructure agreed by Council on 2nd March 2020, the Delegation Scheme was revised to take account of there being no CEO in the establishment.</p> <p>Delegations now reflect the roles of the Head of Paid Service, Monitoring Officer, Section 151 Officer Directors and Heads of Service.</p>	Scheme of Delegations within the Functions Scheme in Part 3 of the Constitution.
Planning Committee	Members at this meeting will be asked to appoint a Planning Committee of 13 Members. This smaller Planning Committee	In Planning Committee's Terms of Reference in Part 3 of the Constitution,

	<p>is part of a review of the operation of the Planning Committee. The following items require constitutional change, however there are a number of other changes that will be put to the Planning Committee in the near future.</p>	<p>replace the reference in the first sentence to a Committee of 18 Councillors with a reference to 13 Councillors.</p>
<p>Planning Committee Substitutes</p>	<p>Currently all Members of the Council can be substitutes. This presents problems as it cannot be guaranteed that any substitute has received Planning training before attending Planning Committee. Without that training there is a risk to the Planning process.</p> <p>It is proposed that each Party Leader decides the appropriate number of substitutes for their Party. The attendance at training by the Planning Committee Members and Substitutes in each Party is to be ensured by the Party Leader.</p>	<p>In Planning Committee's Terms of Reference in Part 3 of the Constitution, replace the second sentence reference to all Members being substitutes with the following:</p> <p>Each Party Leader will supply an annual list of the substitute Councillors from their Party to the Governance Manager in advance of the Annual Meeting.</p> <p>Nominated Members of each political group may act as substitutes on the Committee and will undertake training alongside Planning Committee Members.</p>
<p>Planning Committee – call in of planning applications by Members</p>	<p>The current call in practice of giving members 48 hours before the determination of the application to call the application to Committee has often not been successfully used. This can be for several reasons. Members may not see the email within the timescale; it can extend the timescale for determination by up to six weeks when the applicant was expecting a decision imminently; the application will inevitably</p>	<p>Part 3 of the Constitution, Planning Committee Terms of Reference, add the paragraphs in the attached Appendix, paragraphs c and d.</p>

	<p>be determined out of time risking performance reputation and financial cost to the Council; Members may not provide any or relevant planning issues in time. Consequently the expectations of customers are rarely met.</p> <p>The replacement call-in process will give members the opportunity to ask that the application is presented to Planning Committee at any time in the life of the application. The request will be reviewed and determined by the Chair of Planning Committee and Head of Planning. This will remove the pressure to respond quickly at the end of the process, better manage customer expectations and better manage the process of making decisions.</p>	
<p>Planning Committee Terms of Reference in relation to Member and Officer applications.</p>	<p>It is proposed in the amended version attached that there is clarification on the Officers affected by this requirement for Officers and Members applications to be considered by Planning Committee. An applicant may be an employee of the Council in a service area (at a leisure centre or depot for instance). In these circumstances it is unlikely that planning officers will have contact with the applicant as an employee of the Council. The applicant may not think there was a need to declare that they are a Council employee and planning officers will have no knowledge of them either. Officers may be set up for a fall unwittingly. The amendment deals with this situation.</p>	<p>Part 3 of the Constitution, Planning Committee Terms of Reference, add the paragraphs in the attached Appendix, paragraph (e)</p>

<p>Planning Committee site visits</p>	<p>As a matter of good practice, the Council should change the current arrangements to allow for all Members of the Committee who will be determining the application to attend the site visit. This is an important part of the information gathering process for Members of Planning Committee and should not be restricted to specific Members.</p>	<p>To be by all Members (and where appropriate Substitutes) of the Planning Committee.</p> <p>Planning Protocol additions / amendments:</p> <p>11.5 The Planning Committee will undertake the site visit as a formal group and will enter and leave the site as such. Members should not enter into discussions with applicants, agents or third parties whilst on the site visit. Debate on the application other than for clarification of matters of fact for the site visit will only take place at the subsequent Committee meeting as all relevant parties may not be in attendance at the site.</p>
<p>Certain Planning Applications which are statutorily the role of the Executive but which have been within the Terms of Reference of the Planning Committee.</p>	<p>These applications are:-</p> <ul style="list-style-type: none"> • Making Local Development Orders (section 61A TCPA); • Creating Simplified Planning Zones (section 82 TCPA); • Creating Enterprise Zones (section 88 TCPA). • Discharge of Conditions 	<p>Add to the Delegation Scheme in Part 3 of the Constitution, under the delegation of the Head of Planning in consultation with relevant Portfolio Holder.</p>

<p>Member not to be involved in determining an application in their own ward.</p>	<p>The role of a Committee Member when an application in their ward is being considered has been reviewed. The pressure to speak and vote to satisfy objectors from their ward who are present can be great, but very often compromises their role as a Planning Committee Member. These changes will protect Members in this situation by allowing them to speak as ward Members but not taking part as a Planning Committee Member.</p>	<p>Planning Protocol additions/amendments:</p> <p>2.1 When an application is put before the Committee where the site is situated in a Planning Committee (or Substitute) Member's ward, that Member should withdraw from Committee benches. This will allow them to speak on behalf of the residents they represent if required. Planning Committee members should not vote on applications within their electoral ward</p>
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Appendix

5.6 Planning Committee Functions	Matters not delegated
<p>The determination of all submissions made under The Town and Country Planning Act 1990 and The Town and Country Planning (General Permitted Development) Order (or any associated or related legislation or regulations) for the consent of the Local Planning Authority is delegated to the Head of Planning Health / Planning Manager – Development Management / Development Management Team Leader / Planning Policy Team Leader except where:</p>	<p>(a) In the opinion of the Head of Planning or the Planning Manager – Development Management the application raises matters which should be determined by the Planning Committee.</p>

	(b) The application is submitted by or on behalf of the Council for its own development, except for the approval of development to which no objections have been received
	(c) A Councillor has notified the Head of Planning, the Planning Manager – Development Management or the application case officer by e-mail within 3 weeks of the publication of the weekly list that the application should be determined by the Planning Committee and the notification is supported by one or more planning grounds.
	(d) A Councillor has notified the Head of Planning, the Planning Manager - Development Management or the application case officer by email before the application has been determined the planning reasons why the application should be determined by Planning Committee, and the Head of Planning or Planning Manager Development Management has agreed with the Planning Committee Chair or Vice Chair that the reasons justify Planning Committee determination.
	(e) The application is submitted by i - a current NEDDC Councillor

	<p>ii – a current NEDDC officer who has any involvement in the determination of or advising on planning matters</p> <p>iii – any member of i or ii immediate family</p> <p>when the proposal is not in accordance with the development plan or there has been objection from any consultee or member of the public.</p> <p>Immediate family means parent, sibling, spouse/partner and child.</p>
<p>Making Tree Preservation Orders (TPO's).</p>	<p>To consider any objections or other representations made in opposition to the proposed making of a TPO.</p>