

**Report of the Monitoring Officer**

**CONSTITUTION REVIEW**

1. Purpose of report

To report on the annual review of the Constitution to enable the Committee to consider the changes and to recommend these to full Council to be adopted.

**Recommendation**

**The Committee is asked to consider the amendments to the Constitution and RECOMMEND to Council accordingly.**

2. Detail

Under its terms of reference, this Committee is tasked with an overview of the Council's Constitution, consideration of proposed amendments or revisions and to recommend to Council amendments to this Constitution.

On 11 May 2022, the Council moved from a Committee system of governance to an Executive Cabinet system, which involved making significant changes to the Council's Constitution. It was consequently agreed that an annual review of these arrangements would be undertaken following implementation and in line with Best Practice Recommendations, to ensure the Constitution was kept updated and to ensure good governance.

A review of the Constitution has been undertaken in which Officers have been engaged and comment has been invited from Members through their respective Group Leaders. Although, it is acknowledged that the Borough Elections will have limited the ability for Member engagement, as a number of Members were not standing to be re-elected and new Members needed time to be inducted.

Therefore, the majority of the proposed amendments have been identified through Officer consultation. The amendments include consequential restructure changes to Officer responsibilities and titles, amending the Officer scheme of delegation and the terms of reference to build in better governance arrangements for the Stapleford Towns Fund, Kimberley Levelling Up Fund and UKSPF. A separate exercise has been undertaken concerning the Council's Financial Regulations and the Code of Conduct reported separately on this agenda.

Governance workshops are also being scheduled for Officer, Members and key Stakeholder to further develop the arrangements we have in place for the Stapleford Town's Fund, Kimberley Levelling Up Fund and UKSPF. Once these arrangements have been developed, a further report on proposed changes will be brought back to this Committee to consider and recommend to Council.

Appendix 1 contains a change table with reasons for the amendments. Appendix 2 contains the relevant sections of the Constitution with changes highlighted in red.

Furthermore, the resolutions from the full Council meeting held on 17 May 2023, have been incorporated into the Constitution, these included the removal of the Policy Advisory Committee and adding a Policy Overview Working Group, Events, Arts, Culture and Heritage Working Group and the UKSPF Panel in addition to the removal of named substitutes on non-quasi-judicial Committee meetings.

3. Financial Implications

The comments from the Head of Finance Services were as follows:

There are no direct financial implications arising from this report.

4. Legal Implications

The comments from the Head of Legal Services and Deputy Monitoring Officer were as follows:

Section 37 of the Local Government Act 2000 requires local authorities operating executive arrangements to prepare and keep up to date a document which contains:

- (a) such information as the Secretary of State may direct
- (b) the authority's standing orders (i.e. rules of procedure)
- (c) the code of conduct for members
- (d) such information as the authority considers appropriate.

Broxtowe Borough Council's Constitution is available on the Council's website

5. Human Resources Implications

There were no comments from the Human Resources Manager.

6. Union Comments

There were no Unison comments in relation to this report.

7. Data Protection Compliance Implications

There are no Data Protection issues in relation to this report.

8. Equality Impact Assessment

As there is no change to policy an equality impact assessment is not required.

9. Background Papers

Nil.

## APPENDIX 1

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 1 Part 3 xx (Leader's Delegation)	Added to the Leader's delegations: 'To represent the Council at Derbyshire and Nottinghamshire Leader meetings concerning devolution.'	To ensure the appropriate representation on behalf of the Council.
Chapter 2 Part 1, 1.1	<del>In a year when there is an ordinary election of Councillors, the annual meeting will take place on the second Wednesday following the first Thursday in May. In any other year, the annual meeting will take place in the month of May</del>  Annual Council meeting: to extend the period to hold meetings, including in the year of an election.	To give more flexibility and allow for training/induction of new members.
Chapter 2 Part 1, 2.19	Add updates on the scrutiny work programme to ordinary Council meetings.	To platform the work of scrutiny and allow engagement across the Council.
Chapter 2 Part 1, 2.20	Add 'Receive an Annual Review of Scrutiny report at an appropriate time at ordinary Council meetings.'	To platform the work of scrutiny and allow engagement across the Council.
Chapter 2 Part 3, 2.20 (ED&AMPH).	Replacement of 'Consider the Asset Management Strategy' from Resources and Personnel Portfolio Holder to Economic Development and Asset Management Portfolio Holder (ED&AMPH).	To better align responsibilities.
Chapter 2 Part 3, 2.21 (ED&AMPH)	Addition of 'To consider and make recommendations in relation to Towns Fund Boards.'	Inclusion of new responsibilities

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 2 Part 3, 2.22 (ED&AMPH)	Addition of 'To consider and make recommendations in relation to Levelling Up Funding (e.g. UK Shared Prosperity Fund).'	Inclusion of new responsibilities
Chapter 2 Part 8-17, 10	To include the need for substitute Members of the Planning Committee to complete training prior to attending meetings of the Planning Committee.	To reinforce the need for substitutes to undergo training
Chapter 2 Part 8-17, 8	Membership of the Shareholder Sub-Committee should exclude Board Members of Liberty Leisure.	To avoid conflicts of interest.
Chapter 2 Part 8-17, 12	Senior Officer Employment Committee to be renamed Chief Officer Employment Committee.	To avoid confusion between the terms 'Chief' and 'Senior' Officer.
Chapter 2 Part 8-17, 19	Inclusion of 'Functions Performed by The Stapleford Towns Deal Executive Board (Information to be added.)'	To capture responsibilities of the Towns Deal Board
Chapter 3 Part 1, 11.27 & 12.1	Moving Complaints compensations from Executive Director to Monitoring Officer.	To align responsibilities for complaints.
Chapter 3 Part 1 7.4.4	<del>Corporate Communications Manager</del>  'Communications, Cultural and Civic Services Manager	To reflect correct Job title
Chapter 3 Part 1 7.5	Insertion of 'The Senior Officers of the Council are those who comprise the Senior Management Team as well as those who report directly to a Member of General Management Team as listed at paragraph 7.3 and 7.4'	To clarify who forms part of SMT

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 3 Part 1 9.6	<p>In consultation with the HR Manager, to deal with all matters other than those reserved to the Council relating to the recruitment, appointment, remuneration, conditions of service, discipline, dismissal, superannuation, qualifications, training, job evaluation, promotion, safety and provision of welfare facilities of all employees of the Council (including settlement of claims up to £25,000 after consultation with the Monitoring Officer and Deputy Chief Executive/Section 151 Officer). <del>if within existing budgets).</del></p> <p>In consultation with the HR Manager, as necessary, to deal with all matters other than those reserved to the Council relating to the recruitment, appointment, remuneration, conditions of service, discipline, dismissal, superannuation, qualifications, training, job evaluation, promotion, safety and provision of welfare facilities of all employees of the Council (including settlement of claims up to £25,000 after consultation with the Monitoring Officer and Deputy Chief Executive/Section 151 Officer). <del>if within existing budgets).</del></p>	To reflect the impact the pay awards may have on the approved staffing budgets.
Chapter 3 Part 1 9.12	Insertion of 'Cabinet'	To reflect the correct position
Chapter 3 Part .14	Insertion of 'To sign and seal documents on behalf of the Council, as required'.	To reflect the correct position
Chapter 3 Part 1 11.2.3	Insertion of 'Council'	To reflect the correct position
Chapter 3 Part 11.2.5	<del>To provide advice support the Council's Standards Complaints Officer undertake an initial assessment of complaints made under the Code of Conduct for Members and in consultation with an Independent Person, determine any further action to be taken</del>	To reflect the correct position
Chapter 3 Part 1 1.2.5	Change from 'o' to Capital 'O'	Grammatical Correction

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 3 Part 1 13.3	Insertion of 'and withdraw'	Clarification
Chapter 3 Part 1 14.	Head of <del>Governance</del> & Deputy Monitoring Officer  Head of Democratic Services & Deputy Monitoring Officer	To reflect correct job title
Chapter 3 Part 1 14.1	To perform, the Council's <del>Governance</del> functions  To perform, the Council's Democratic Service functions	To reflect the correct position
Chapter 3 Part 1 14.2	<del>To perform the Council's Information Governance functions</del>	This responsibility has moved to Head of Administrative Services.
Chapter 3 Part 1 14.3	<del>To perform the Council's Democratic Services functions</del>	Already stated in clause 14.1
Chapter 3 Part 1 14.4	<del>'To perform the Council's Parking Services functions'</del>	This responsibility has moved to Head of Administrative Services.
Chapter 3 Part 1 14.5	<del>Deletion of 'to perform the Council's Surveillance functions'</del>	This responsibility has moved to Head of Administrative Services
Chapter 3 Part 1 14.7	Insertion of 'and in accordance with the relevant legislation'	Point of clarification
Chapter 3 Part 1 14.8	<del>To act as the Council's Senior Responsible Officer under the Surveillance Commissioner Code of Practice'</del>	This responsibility has moved to Head of Administrative Services
Chapter 3 Part 1 16.5	<del>To determine planning applications accordingly</del>	Reflect the current position

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 3 Part 1 16.7	To determine applications for planning permission, the need for prior approval, consent for the display of advertisements and listed building consent and the determination of or response to any other application or matter received in respect of the town and country planning function, <b>(excluding enforcement)</b> including Article 4 directions subject in each case to the proviso that any Member of the Council may bring the application before the Planning Committee for decision, and subject also to the provisos below	Reflect the current position
Chapter 3 Part 1 16.8	<p>To determine planning enforcement action as may be necessary having due regard to the <del>after prior</del> consultation response from <del>with</del> Ward Members, and the Chair of Planning Committee and the Head of Legal Services to include the</p> <p>To determine planning enforcement action as may be necessary <b>having due regard to</b> the consultation <b>response from</b> Ward Members, the Chair of Planning Committee and the Head of Legal Services to include the:</p>	Reflect the current position
Chapter 3 Part 1 16.9	Insertion of: On a finding of breach of planning control, after consultation with Ward Members, Chair and Vice Chair of Planning Committee and Head of Legal Services to carry out the necessary action.	Reflect the current position
Chapter 3 Part 1 16.10	<p>To <del>perform</del> the Council's functions under the Building Act 1984 to include the issue of Notices under Section 36 of the Building Act 1984 (removal or alterations of work done in breach of Building Regulations) in consultation with the Head of Legal Services.</p> <p>To <b>manage</b> the Council's functions under the Building Act 1984 <b>as amended</b> to include the issue of Notices under Section 36 of the Building Act 1984 (removal or alterations of work done in breach of Building Regulations) in consultation with the Head of Legal Services.</p>	Administrative Change

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 3 Part 1 16.17	Insertion of: Where Section 106 contributions have been approved at the relevant Committee to arrange payments of these in consultation with the Head of Legal Services.	Reflect current position
Chapter 3 Part 1 17.2	<del>To deal with Housing Repairs and Compliance matters</del>	This responsibility has moved to Head of Housing
Chapter 3 Part 1 17.3	Insertion of To approve bids and adaptations to Council properties up to a maximum of £30,000.	This responsibility has moved to Head of Asset Management,
Chapter 3 Part 1 18.8	To award compensation under the Secure Tenants of Local Authorities (Compensation for Improvement) Regulations 1994 unless appropriate to exercise a discretion.  To award compensation ( <b>up to a maximum of £1000</b> ) under the Secure Tenants of Local Authorities (Compensation for Improvement) Regulations 1994 unless appropriate to exercise a discretion.	Point of clarification
Chapter 3 Part 1 18.11	To consider and conduct reviews of Council <del>homeless decisions</del> and introductory tenancies.	Point of clarification
Chapter 3 Part 1 18.11	Insertion of 'To deal with Housing Repairs and Compliance matters'	This responsibility now with the Head of Housing
Chapter 3 Part 1 18.12	Insertion of 'In common with the Head of Legal Services deal with acquisition, appropriations and disposals of Council Houses not exceeding the value currently set out in Financial Regulations.	Reflect current position
Chapter 3 Part 1 18.13	Insertion of 'To consider, negotiate and determine all acquisitions, appropriations and disposals, lettings, negotiations and settlement of leases and rents for Council Houses not exceeding the rental or capital consideration currently set out in the Financial Regulations and in accordance with relevant Council policies.	Reflect current position

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 3 Part 1 20.3	Insertion of 'including the assessment of all reliefs, discounts levy's and exemptions'.	Point of clarification
Chapter 3 Part 1 20.5	Insertion of 'To appoint Officers (either internally or externally) to act on behalf of the Council to perform functions in relation to Revenues, Benefits and Customer Services	Point of clarification
Chapter 3 Part 1 21.4	Insertion of ' To perform the Council's Parking Services functions'.	This delegation now with Head of Administrative Services.
Chapter 3 Part 1 21.5	Insertion of ' To perform the Council's Surveillance functions'	This delegation now with Head of Administrative Services.
Chapter 3 Part 1 21.6	Insertion of ' To act as the Council's Senior Responsible Officer under the Surveillance Commission Code of Practice'.	This delegation now with Head of Administrative Services.
Chapter 3 Part 1 23.7	Insertion of 'sharing and Key Individuals Network Contact Systems'	Point of clarification
Chapter 3 Part 1 23.8	<del>'To perform the Council's functions in managing the Local Strategic Partnership and Community Safety Partnership sharing and Key Individuals Network Contact Systems'</del>	Point of clarification
Chapter 3 Part 1 Schedule of Proper Officer table	Local Government Act 1972 S100B(2), S100B(7), S.100C(2) Head of <del>Governance</del> Democratic Services  The Local Authorities (EXECUTIVE ARRANGEMENTS) Access to Information (ENGLAND) Regulations 2012 N0.2089 Regulation 5, 7, 9,10,12,13,14,15,16 and 20 Head of <del>Governance</del> Democratic Services	To reflect correct job title

Constitution Chapter and Number	Current Wording/Suggested Change	Reason for Change
Chapter 5 Part 3 4.1	<p>Only one person objecting and the applicant or a supporter may speak. <del>Professional representatives/agents will not be entitled to speak.</del> Where an application affects a large area, additional speakers will be allowed, at the discretion of the <del>Monitoring Officer</del> Head of Planning and Economic Development, if it is felt there is justification on the basis of a multiplicity of viewpoints and issues.</p> <p>Only one person objecting and the applicant or a supporter may speak. Where an application <b>is a major planning application</b> and affects a large area, additional speakers will be allowed, at the discretion of the <b>Head of Legal</b> and Head of Planning and Economic Development, if it is felt there is justification on the basis of a multiplicity of viewpoints and issues.</p>	To allow professional representatives/agents to speak to enable discussion to focus on planning grounds and to align with general planning protocol across other authorities.
Chapter 5 Part 3.4 Notes	<p><del>Any Member may refer an application to the Planning Committee for a decision.</del> Any Member may refer an application to the Planning Committee, on giving 28 days' notice from the date the application is published on the weekly list and having completed the relevant referral form. The Such a Member may speak but not vote on the application, unless they are a Member of the Committee. Additionally, Ward Councillors also have the right to attend and speak but not to vote on an application for planning consent for a matter affecting their Ward. Speeches by Members who have referred an application to Committee and by Ward Members will be limited to five minutes' duration. Any Ward Councillor having spoken to the Committee will have the right to reply before the Committee votes</p> <p><b>Any Member may refer an application to the Planning Committee, on giving 28 days' notice from the date the application is published on the weekly list and having completed the relevant referral form. The</b></p>	To streamline the process when referring applications to planning committee.

	<p>Such a Member may speak but not vote on the application, unless they are a Member of the Committee. Additionally, Ward Councillors also have the right to attend and speak but not to vote on an application for planning consent for a matter affecting their Ward. Speeches by Members who have referred an application to Committee and by Ward Members will be limited to five minutes' duration. Any Ward Councillor having spoken to the Committee will have the right to reply before the Committee votes.”</p>	
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