

WEST NORTHAMPTONSHIRE COUNCIL

Report by the Democracy and Standards Committee 29 June 2023

Report Title **Updates to the Constitution**

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List of Appendices

Appendix A – Draft revised Constitution (available on request from democraticservices@westnorthants.gov.uk)

1. Purpose of Report

- 1.1 The purpose of this report is to enable Council to consider the recommendations made by the Democracy and Standards Committee in relation to proposed updates to the Constitution in relation to the structure and operation of the Council’s Planning Committees.

2. Executive Summary

- 2.1 The Constitution for West Northamptonshire Council was formally adopted by the West Northamptonshire Shadow Authority prior to vesting day (1 April 2021). A major review of the Constitution was then undertaken by the Democracy and Standards Committee in the autumn of 2021, reporting to Council in December 2021. Since that time, the Democracy and Standards Committee has considered several suggested changes to the Constitution and has made recommendations to Council accordingly.
- 2.2 Further suggested amendments are summarised in section 5 below. These changes have generally been made to address issues that have been identified with the operation of the Constitution or to ensure the Constitution is up-to-date, for example by reflecting changes to legislation or statutory guidance.

3. Recommendations

- 3.1 It is recommended that the Council:
- a) Notes and approves the updates to the Constitution as set out in Section 5; and
 - b) Delegates to the Monitoring Officer the power to make these amendments and any consequential amendments that may be necessary.

4. Reason for Recommendations

Keeping the Constitution under regular review will help ensure that it is legally compliant, complete, reflects the character and culture of the authority and supports effective and efficient decision making.

5. Report Background

Authority to Consult

- 5.1 The Constitution provides for members of the Cabinet to be consulted on whether decisions that are ordinarily taken by officers should be referred to Cabinet.
- 5.2 Where consultations are undertaken by the Council, they are generally considered to be part of the preparatory work that may lead to a formal decision once the outcome of the consultation has been taken into account. Formal approval to commence consultation is not always necessary, save for some exceptions such as consultation on Policy Framework items, which requires approval by the Cabinet.
- 5.3 Nevertheless, it is recognised that consultation on an issue can attract considerable public interest. Proper consideration of the implications of launching a consultation should therefore be taken into account prior to commencement. It is proposed to make the following change to the Constitution:

Section 9 (Officers), 9.2 (Scheme of Delegation to Officers), Paragraph 4:

1. Portfolio holders for the relevant area should be consulted on the exercise of a delegated power in all cases where:
 - (a) there is likely to be opposition from members of the public;
 - (b) where there are political sensitivities;
 - (c) there is likely to be media (including social media) interest; or
 - (d) expenditure is unusual for the Budget area;

(e) a consultation concerning a decision that is likely to result in any of the criteria set out in (a) to (d) above being met is planned.

2. Before exercising any delegated power, officers must consider whether to consult with the relevant portfolio holder on the exercise of delegated powers or not to exercise delegated powers but to refer the matter to the relevant member or member body to decide.

Planning Protocol

- 5.4 Technology the Council has in place enables remote participation at certain committee meetings. The Democracy and Standards Committee debated this issue in relation to speakers at planning committees and resolved to recommend that the Planning Protocol be updated to reflect the ability of speakers as set out in Section 8.6 of the protocol (the appellant or the agent, objectors and supporters, the ward councillor(s), MPs and parish council representatives) to participate remotely.
- 5.5 The Committee were mindful of the risks of technological failure and the need to balance those risks against the need to make decisions in a timely and correct manner to reduce the risk of challenge. The committee resolved that safeguards should be put in place so there is a clear process to be followed in such instances.
- 5.6 The Committee recommended the following changes to the Planning Protocol (*new text in italics*):

1.3 Arrangements for Speaking

It is necessary to register with Democratic Services as soon as possible and in any event not later than midday on the last working day before the Committee. This applies to all speakers, with the exception of Ward Councillors. Speakers are required to indicate whether they will be speaking against or in support of an application.

Speakers referred to in paragraph 1.1 of this protocol may request to address the meeting via video link where such facilities are available. Should a speaker be unable to address the committee via video link for any reason, including a failure of technology, then in accordance with section 2.2 of this protocol consideration of the application will not be delayed. It is therefore recommended that such speakers submit a written statement to Democratic Services no later than 24 hours before the start of the meeting. Any statements received will be read out by the Democratic Services Officer at the invitation of the Chair.

6. Issues and Choices

- 6.1 The issues and choices insofar as they relate to the operation of the Constitution are set out in section 5 above.

7. Implications (including financial implications)

7.1 Resources and Financial

- 7.1.1 There are no financial implications arising directly as a result of the Constitution review process.

7.2 Legal

7.2.1 Every local authority is under a legal duty to prepare and keep up to date its Constitution (see Appendix B). In particular, section 9P of the Local Government Act 2000 requires the Constitution to contain:

- a) a copy of the authority's standing orders;
- b) a copy of the authority's code of conduct;
- c) such information as the Secretary of State may direct; and
- d) such other information (if any) as the authority considers appropriate.

7.2.2 Regular review of the Constitution helps to ensure these legal requirements are met. The amendment set out above will assist in ensuring the Council is able to operate in a lawful manner.

7.3 Risk

7.3.1 There are no significant risks arising from this report. Reviewing the Constitution helps to reduce any risks that could arise as a result of the Constitution not properly supporting decision making and delivery of Council services.

7.4 Consultation

7.4.1 Consultation will be undertaken with this committee prior to recommendations being submitted to Council.

7.5 Consideration by Overview and Scrutiny

7.5.1 Not applicable to this report.

7.6 Climate Impact

7.6.1 There is no climate impact to consider in relation to the recommendation.

7.7 Community Impact

7.7.1 None specific.

8. Background Papers

8.1 None