

WEST NORTHAMPTONSHIRE COUNCIL

Democracy and Standards Committee 12 September 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 provide an update to the Democracy & Standards Committee on a number of proposed changes to the Constitution and request that the committee recommend the revisions to Council for adoption.

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 Committee:

- a) Note and approves the updates to the Constitution as set out in Section 5; and
- b) Recommends the updates to Council for approval.

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

Property Transactions

- 5.1 At its meeting in July 2021, the Cabinet considered a report relating to several property transactions. Also set out within this report were a number of wider delegations to officers designed to enable the effective management transactions relating to the Council's property portfolio. These delegations were agreed and it was intended that they be incorporated within the relevant section of the Constitution as part of the wide-ranging review overseen by this committee and which concluded in December 2021.
- 5.2 Although the delegations were agreed by the Cabinet, it appears the changes that were agreed were omitted from that review. The Committee are therefore asked to recommend these changes by include in order to correct this anomaly. The specific changes are to be made to the constitution are set out in the table at points 9-12 below, while officers have also taken the opportunity to clarify and simplify the table.

Scheme of Delegation to Officers:

C. EXCEPTIONS PROPERTY

Process	Officer Delegation	Cabinet Approval	Council Approval
Disposal and Acquisition of Land			
1. Asset Management Plan	No	Yes	No
2. Acquisition at or over £500,000	No	Yes	Where it exceeds the Capital or Revenue Budget
3. Acquisition under £500,000	Assistant Director	No	No

	Assets and Environment in consultation with the s151 Officer if value over £100,000		
4. Disposal (including allowing occupation or sharing the use of any land) in any of the following cases: a. Freehold or leasehold or rights over land where the value does not exceed £500,000 and the disposal is not at an undervalue (except where authorised by existing policy). b. Leasehold where the lease term does not exceed fifteen years of the Council has ability to break at intervals not exceeding fifteen years and the disposal is not at an undervalue (except where authorised by existing policy). c. Leases of up to 125 years at nil consideration, or otherwise at an undervalue, which are directly related to the conversion of a local authority maintained school to an academy, or where as a result of a Council decision (including provisions of a Section 106 agreement entered into by the Council or Section 106 unilateral undertaking benefiting the Council) a new school is to be created, and that school will be an academy. d. Licenses and leases of community centres and similar buildings at undervalues (including nil consideration) with parish councils, charities or VCS groups as defined in the Policy on the Use of Property by Voluntary, Community, Social Enterprise and Faith Groups e. Licenses and tenancies at will, including grants at undervalues (including nil consideration), where this supports the effective management of the Council's property or enables implementation of the Council's policies or statutory duties.	Assistant Director Assets and Environment, in the case of items (a) if value is over £100,000 and (d) in consultation with Chief Finance Officer	No	No
5. Disposal of land not covered by 4	No	Yes	No
6. Non-Land Based Asset Disposal	Yes in accordance with the Finance	No	No

Fire Safety Act 2021 and Building Safety Act 2022

- 5.3 The Fire Safety Act 2021 and the Building Safety Act 2022 have made significant changes to the way in which high rise residential buildings are managed.
- 5.4 Part 4 of the Building Safety Act identifies new duty holders - who will be known as 'accountable persons' - for residential high-rise buildings. This will be the organisation or person who owns or has responsibility for the building. It may also be an organisation or person who is responsible for maintaining the common parts of a building, for example corridors or lobbies.
- 5.5 The duties of the accountable persons will include;
 - Registering high risk buildings with the regulator;
 - Applying for a Building Assessment Certificate, which must be obtained before the building can be occupied;
 - Appointing Building Safety Managers;
 - Ongoing obligations to assess and fire and structural issues;
 - Maintain a building safety case file;
 - Provide residents with key safety information and ensuring a resident engagement strategy is in place; and
 - Engage with the BSR as required, including the proactive reporting of defect/failures.
- 5.6 The Council is therefore required to identify an Accountable Person for building safety and a Responsible Person for Fire Safety. The Council’s Executive Leadership Team reviewed the requirement and agreed that the Director of Communities and Opportunities be named as the Accountable Person for Building Safety and designated Officer for the Housing Consumer Standards and Health and Safety Lead, while the role of Responsible Person as required by the Fire Safety Act 2021 be delegated to the individual building managers at Northamptonshire Partnership Homes. The update to the list of proper officers is set out below:

BUILDING SAFETY ACT 2022

Section	Brief Details of Responsibility	Proper Officer
Part 4	Accountable Person for Building Safety and designated Officer for the Housing Consumer Standards and Health and Safety Lead.	Director of Communities and Opportunities

- 5.7 It should be noted that, as a new statutory requirement, this change has been agreed by the Monitoring Officer under delegated powers to ensure the Constitution is up-to-date and compliant, but is being reported to the Committee for completeness.

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