

WEST NORTHAMPTONSHIRE COUNCIL

28 September 2023

Report by the Democracy and Standards Committee

Report Title Updates to the Constitution

Report Author Catherine Whitehead
catherine.whitehead@westnorthants.gov.uk

Contributors/Checkers/Approvers

Monitoring Officer	Catherine Whitehead	
Chief Finance Officer (S.151)	Martin Henry	
Communications	Becky Hutson	

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 and changes to committees.

2. Executive Summary

2.1 The Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. The Council must operate in accordance with its Constitution and the rules set out in it. The Constitution is divided into different parts which set out the basic rules governing the Council's business as well as some of the detailed rules.

2.2 At their meeting on 12 September 2023, the Democracy and Standards Committee considered a report about proposed changes to the Council's Constitution arising from changes to legislation (housing) and working practices (property transactions). The background to these issues, as well as the recommendations of the committee, are set out below.

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

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 Assets and Environment in consultation with the s151 Officer if value over £100,000	No	No
<p>4. Disposal (including allowing occupation or sharing the use of any land) in any of the following cases:</p> <p>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).</p> <p>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).</p> <p>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.</p> <p>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</p> <p>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.</p>	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	No	No

	with the Finance Procedure Rules		
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Fire Safety Act 2021, Building Safety Act 2022 and Social Housing Regulation Act 2023

- 5.3 The Fire Safety Act 2021, the Building Safety Act 2022 and the Social Housing Regulation Act 2023 have made significant changes to the way in which high rise residential buildings and social housing 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 onwards to the individual building managers at Northamptonshire Partnership Homes.
- 5.7 The Social Housing (Regulation) Act 2023 introduces the following changes:
- Strengthening the Regulator of Social Housing to carry out regular inspections of the largest social housing providers and the power to issue unlimited fines;
 - Additional Housing Ombudsman powers to publish best practice guidance to landlords following investigations into tenant complaints;
 - Powers to set strict time limits for social landlords to address hazards such as damp and mould; and
 - New qualification requirements for social housing managers.
- 5.8 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

FIRE SAFETY ACT 2021

Section	Brief Details of Responsibility	Proper Officer
Sections 1 and 3	Responsible Person for Fire Safety in relation to residential buildings	Director of Communities and Opportunities

SOCIAL HOUSING REGULATION ACT 2022

Section	Brief Details of Responsibility	Proper Officer
Section 10	Health and Safety Lead and Lead Officer for compliance with the Housing Consumer Standards.	Director of Communities and Opportunities

- 5.9 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 has been undertaken with the Democracy and Standards Committee and officers in relevant services 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