

WEST NORTHAMPTONSHIRE COUNCIL

Democracy and Standards Committee 15 November 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 the committee to consider proposed recommendations in relation to updates to the Constitution.

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 15 November 2023, the Democracy and Standards Committee considered a report about proposed changes to the Council's Constitution arising from updates required to the Financial Procedure Rules.

3. Recommendations

3.1 It is recommended that the Committee:

- a) Notes and approves the recommendations to Council relating to 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

Financial Procedure Rules

- 5.1 The Council's Financial Procedure Rules contain a section dealing with organisations partly or wholly owned by the Council. These rules contain a number of provisions relating to the establishment and ongoing operation of bodies covered by various company structures such as limited liability partnerships, private companies limited by guarantee, community interest companies etc.
- 5.2 A review of these requirements has highlighted the need for changes to be made. For example, the rules require such organisations to comply with a number of requirements that are no longer considered to be achievable or realistic. These requirements include the appointment of a Finance Director reporting to the Council's Chief Finance Officer and compliance with the Council's Financial Procedure Rules. Some of these provisions are not appropriate for autonomous organisations such as NPH and would be better dealt with within the articles of association for each organisation.
- 5.3 Revised procedure rules for this section are set out below:

47. Establishing entities jointly or wholly owned by the Council

47.1 For the purposes of this regulation, the term 'company' is used to describe any of the following:

- 47.1.1 Limited or unlimited company (including a community interest company).
- 47.1.2 Limited partnership.
- 47.1.3 Limited liability partnership.
- 47.1.4 Community benefit society (under the Co-operative and Community Benefit Societies Act 2014).
- 47.1.5 A similar entity with legal personality incorporated outside of the United Kingdom.

- 47.2 Where the Council is considering setting up a company in which it will have an ownership share (either as a shareholder or a member, according to the type of entity concerned) the following provisions will apply.
- 47.3 A business case must be prepared and approved by the Chief Financial Officer prior to final approval being given to making the company operational. The business plan must consider:
- 47.3.1 Short and medium term financial.
 - 47.3.2 Taxation.
 - 47.3.3 Risk management.
 - 47.3.4 Value for money.
- 47.4 The relevant Chief Officer, Monitoring Officer and the Chief Financial Officer must certify that they are satisfied that the constitution and allied arrangements of the company are adequate to safeguard the interests of the Council before it becomes operational.
- 47.5 Insofar as the law permits, the Chief Finance Officer and Monitoring Officer shall have unfettered access to all information of the company as required to fulfil their statutory obligations.

Officers

- 5.4 As members will be aware, the Executive Director of Corporate Services has recently been seconded to our Children's trust to provide additional senior leadership capacity to help with the delivery of transformation plans. The structure chart and consequential changes need to be made to the Constitution to reflect this (temporary) arrangement:
- The Assistant Chief Executive now has responsibility for DTI, Customer and Corporate Services.
 - The Executive Director Finance and Resources now has responsibility for HR and Legal and Democratic Services.
- 5.5 It is also suggested that the glossary set out at the end of the constitution includes the definition of Chief Officer set out within the Officer Employment Procedure Rules. This will ensure consistency across the Constitution. The definition will be:

Chief Officer:

Statutory Chief Officer has the same meaning as set out in section 2(6) of the 1989 Act and for this council will be:

- (a) Chief Executive (Head of Paid Service)
- (b) Executive Director Finance (Chief Finance Officer)
- (c) Director of Legal and Democratic (Monitoring Officer)
- (d) Executive Director People and Deputy Chief Executive (Director of Adult Services)

(e) Director of Children's Services

(f) Director of Public Health;

Non-Statutory Chief Officer means a person who reports or who is directly accountable to the Head of Paid Service, to the Council, or any committee or sub-committee of the Council as set out in section 2(7) of the 1989 Act (other than persons whose duties are solely secretarial or clerical or are otherwise in the nature of support services) and for this council will be any other Executive Director, Director or Assistant Chief Executive appointed by the Council who are not Statutory Chief Officers;

Deputy Chief Officers are people who report directly or are directly accountable to one or more of the Statutory or Non-Statutory Chief Officers (other than persons whose duties are solely secretarial or clerical or are otherwise in the nature of support services) as set out in section 2(8) of the 1989 Act, and for this council will be its Assistant Directors.

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 because 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