

WEST NORTHAMPTONSHIRE COUNCIL DEMOCRACY AND STANDARDS COMMITTEE

30 September 2021

Report Title Constitution Review

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Contributors/Checkers/Approvers

Monitoring Officer	Catherine Whitehead	
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Other Director	The Executive Leadership Team have been consulted on this report.	

List of Appendices

Appendix A – Consultation responses

Appendix B – Draft revised Constitution

1. Purpose of Report

- 1.1 The purpose of this report is to:
- 1.1.1 Report the results of the consultation exercise held during August;
 - 1.1.2 Update the Committee on the work of the Task & Finish Group in its review of the Constitution;
 - 1.1.3 Recommend amendments to the Constitution;
 - 1.1.4 Advise on next stages in the process.

2. Executive Summary

2.1 At its meeting on 29 July 2021, the Committee:

- a) Established a Task & Finish Group to conduct a review of the Council's Constitution and make proposals to the Committee for onward recommendation to Cabinet and Full Council;
- b) Approved a consultation programme for the Constitution review;
- c) Noted the anticipated timeframe for the review.

2.2 A consultation exercise with elected members, NCALC and the general public was conducted during August. The responses to the consultation exercise, together with proposed amendments put forward by officers, were considered by the Task & Finish Group in two meetings during September. The outcome of those meetings was a revised Constitution showing (by way of tracked changes and marginal comments) the amendments proposed.

2.3 Following consideration by the Committee, further consultation will take place with the Executive Leadership Team (ELT) and Cabinet during October and November, with any additional proposed amendments being reported to the Committee at its next meeting on 25 November 2021.

3. Recommendations

3.1 It is recommended that the Democracy and Standards Committee:

- a) Notes the responses to the consultation programme;
- b) Acknowledges the work of the Task & Finish Group;
- c) Endorses the proposed amendments to the Constitution;
- d) Recommends the revised Constitution to Cabinet for comment and further consideration.

4. Reasons for Recommendations

4.1 The reasons for the recommendations are as follows:

- a) A review of the Constitution by the Democracy and Standards Committee was agreed by Full Council on 20 May 2021 and Cabinet on 8 June 2021.
- b) Conducting a review of the Constitution helps to ensure that it is legally compliant, complete, supports effective and sound decision-making, and reflects the character, culture and priorities of the authority.

5. Report Background

5.1 At the Committee meeting on 29 July, the following was agreed:

- a) A Task & Finish Group be established comprising five members:
 - i. Cllr Patel (Con)
 - ii. Cllr Irving-Swift (Con)
 - iii. Cllr Cole (Con)
 - iv. Cllr Eales (Lab)
 - v. Cllr Harris (LibDem)

- b) A consultation exercise be conducted during August with all elected members, the chief executive of NCALC, together with parish councils and members of the public (via the Council's [consultation hub](#)).
- c) The dates and times of the Task & Finish Group meetings to be as follows:
 - i. 6 September at 4pm
 - ii. 21 September at 4pm
- d) Members of the Task & Finish Group be supplied with a tracked change version of the revised Constitution together with a summary of consultation responses ahead of their first meeting.
- e) A draft report summarising the recommended changes and consultation responses be prepared by 23 September (copied to ELT and the Deputy Leader), ahead of the Democracy & Standards Committee meeting on 30 September.

5.2 A draft consultation questionnaire was agreed by members of the Task & Finish Group and emailed to members on 2 August. The questionnaire was launched on the Council's consultation hub on 3 August and remained open until midnight on 31 August. A tick box was included on the opening page for respondents to indicate their status (including one for Members to state that they were a councillor).

5.3 In addition, the online survey was sent to:

- a) West Northants Residents Panel (comprising 500+ individuals)
- b) West Northants Consultation Registrar (comprising individuals and organisations who have registered to be informed about West Northants consultations).
- c) WNC councillors and Town and Parish councillors.
- d) The chief executive of the Northamptonshire County Association of Local Councils, for distribution to its members and for his personal response.

5.4 In addition, officers in the Communications Team issued a news story for the press and social media to promote the consultation exercise.

6. Issues and Choices

6.1 The consultation questionnaire and survey responses were considered in detail by the Task & Finish Group and are attached in full at Appendix A¹. There were 98 online responses plus 95 other responses that were not submitted online, giving a total response for the survey of 193.

6.2 Respondents included 19 WNC councillors, 65 parish councillors, 3 representatives of the local business community, 2 representatives of a public sector partner, 15 representatives of a voluntary or community organisation, NCALC and 7 council employees.

6.3 A quantitative summary of the responses is shown in the table below. The qualitative (free text responses) are shown in the body of the spreadsheet attached at Appendix A, together with a comprehensive analysis of the comments received.

Question	Agree	Disagree	Neither Agree nor Disagree
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¹ Please note that the attachment at Appendix A contains personal data of respondents and therefore should be handled in accordance with the Council's policy on data information and compliance.

1	Do you agree or disagree that the Constitution provides guidance on how the Council provides leadership to the community in partnership with citizens, businesses and other organisations?	46 (24%)	27 (14%)	34 (18%)
2	Do you agree or disagree that the Constitution supports the active involvement of citizens in the process of council decision making?	36 (19%)	44 (23%)	26 (13%)
3	Do you agree or disagree that the Constitution is easy to understand and is up to date?	26 (13%)	41 (21%)	39 (20%)
4	Do you agree or disagree that the Constitution helps councillors to represent their constituents more effectively?	23 (12%)	40 (21%)	41 (21%)
5	Do you think the Constitution enables decisions to be taken efficiently and effectively?	Always – 3 (2%) Usually – 53 (27%) Rarely – 24 (12%) Never – 7 (4%)		
6	Do you agree or disagree that the Constitution ensures that those responsible for decision-making are clearly identifiable to local citizens and that they explain the reasons for decisions?	32 (17%)	41 (21%)	30 (16%)
7	Do you agree or disagree that the Constitution creates a powerful and effective means of holding decision makers to public account?	24 (12%)	44 (23%)	33 (17%)
8	Do you agree or disagree that the Constitution ensures that proposals and decisions are effectively and fairly reviewed?	20 (10%)	42 (22%)	36 (19%)
9	Do you agree or disagree that the Constitution provides a means of improving the delivery of services to the community?	21 (11%)	38 (20%)	38 (20%)

- 6.4 In addition, a table of responses and proposed amendments was received from the Liberal Democrat Group on 31 August. This was also considered in detail by the Task & Finish Group and is attached at Appendix A.
- 6.5 Over the course of its two meetings, the Task & Finish Group went through the whole of the Constitution, discussed several specific areas in detail, considered the consultation responses, endorsed a number of proposals for change and made several recommendations for amendment to the Constitution. The revised draft Constitution is attached at Appendix B, showing by way of tracked changes the proposed revisions and in marginal comments the issues still to be determined.
- 6.6 Whilst many of the proposed amendments are administrative in nature or to comply with legal requirements, members' attention is specifically drawn to the following proposed amendments:
- (a) Principles of Decision Making (page 7)
 - (b) Opposition speeches, Member questions and motions on notice at Full Council meeting (pp.23, 31, 32)
 - (c) Substitute members (p.42)
 - (d) Planning Policy Committee draft terms of reference (page 74)
 - (e) Public interest test for exempt agenda items (p.90)
 - (f) Councillor Call for Action (p.106)
 - (g) Sensitive interests (p.126)
 - (h) Call-in of planning applications (p.157)

- (i) Protocol for Speaking at Planning Committee (p.161)
- (j) Recording and publishing officer decisions (p.181)

6.7 The timetable for the review is set out below, which balances the need to ensure that the Constitution is up to date and fit for purpose as soon as possible against the need to carry out a thorough and detailed review. The shaded sections have been completed.

July 2021	29 th – Democracy & Standards Committee establishes Task & Finish Group, approves Terms of Reference, endorses constitution review principles, and approves consultation programme.
August 2021	1 st -31 st - Consultation on revisions to the Constitution in accordance with consultation programme agreed by the Democracy and Standards Committee.
September 2021	6 th -21 st - Task & Finish Group reviews consultation responses and makes recommendations for amendments in conjunction with officers supporting the Task and Finish Group. 30 th - Democracy & Standards Committee reviews findings and confirms recommendations.
October 2021	ELT inputs and reviews consultation responses and proposed amendments to the Constitution.
November 2021	9 th – Cabinet reviews and comments on proposed amendments to the Constitution. 25 th – Democracy & Standards Committee considers responses from ELT and Cabinet, and agrees report recommending changes to Constitution for approval at full Council.
December 2021	2 nd – Full Council gives formal approval of changes to the Constitution.

7. Implications (including financial implications)

7.1 Resources and Financial

7.1.1 There are staffing implications in terms of the officer time required to support the Constitution review process. However, these requirements can be met with existing resources.

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

7.2 Legal

7.2.1 Under Section 9P of the Local Government Act 2000, every local authority is under a duty to prepare and keep up to date its Constitution. Section 9P 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.

7.3 Risk

7.3.1 There are no significant risks arising from this report. Conducting a Constitution review process 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 The consultation implications arising from this report have been considered above.

7.5 **Consideration by Overview and Scrutiny**

7.5.1 Not applicable to this report.

7.6 **Climate Impact**

7.6.1 No climate or environmental impacts have been identified as arising from this report.

7.7 **Community Impact**

7.7.1 There are no direct community impacts arising from this report. However, any specific community impacts that arise from amendments to the Constitution have been considered by the Task & Finish Group at the time recommendations for amendments were made.

8. **Background Papers**

8.1 Report to the Democracy & Standards Committee 29 July 2021.

Consultation Responses

CONSULTATION HUB RESPONSES



Constitution
consultation respon



Constitution
Consultation (detail)

LIBERAL DEMOCRAT GROUP - CONSTITUTION FEEDBACK

Section	Reference	Comments
1 Summary and Explanation	1.24	The council will establish a Climate Emergency Community Forum and may decide to establish other forums and boards
	1.25	Council Officers operate impartially and must work with all councillors including those who are not members of the administration
	1.13	This states Chair and Vice Chair will be selected at the AGM - then later in 4.7.5.2 it states that appointment of these role is for a maximum of 2 years - it needs to be clear that this means a maximum of 2 'terms' rather than a tenure of 2 years. Wording needs to be clearer. Also what is the procedure for the removal of a Chair or Vice Chair before the end of their tenure?
2. Public Participation	2.4	The overview and scrutiny committees must include a member or members of the public
	2.6	note: the link to the online viewing portal should appear in the constitution

	2.14	15 minutes for public questions is not sufficient - this must be at least 30 minutes or hold public forums separate to the full council meeting
	2.15	note: the link to how access is made by members of the public should appear in the constitution
	2.19	E should be : we will not be solely reliant on digital platforms to gather feedback
3. Full Council	3.13	This states that the council deals with non-political matters as follows: elections/pensions/planning/licencing/staff/signing off accounts. 3.14 then says the majority of these decisions are decided by cabinet. How can the cabinet take decisions on 1. staff pensions which are negotiated nationally? 2. Elections - surely this is political. 3. Signing off accounts - if this is the authority's statutory accounts then surely this should be full council.
	3.12	There will be a minimum of 5 Full Council Meetings per annum - one of which will be for budget setting.
	3.2.1.1	All meetings should start at 6pm
	10.3	The item should be worded accepted/referred/ deferred or withdrawn. Rejected should be struck from the wording and not be an option. To reject a motion simply because time has overrun according to the constitution is undemocratic.
	17.1	note: the link to the petition scheme should appear in the constitution
	19.2	15 minutes for members questions is not sufficient - this must be at least 30 minutes
	24.2	Taken as read means that members of the public have no sight of the question nor what the response is. This is uninformative for members of the public. It is noted that questions and answers are available after the meeting but how do we ensure the public knows what is going on during the meeting?
	28.2	This should be a period of 30 minutes at council meetings - written reports will be provided by portfolio holders which should be taken as read by members. The time allocation should be made available for members to ask portfolio holders questions without notice.
	28.3	This should be a period of 30 minutes.
	3.32	It also needs to specify Climate Emergency Plan - this is currently not listed.
4. Committees	4.1	We should include a Climate Committee either sitting under Governance or Community as a local forum or board.
	4.35	It needs to state clearly what the committee membership is for the planning committee, what the number of members are, what the quorum is and rules of appointment. Should be a politically balanced membership not just executive.

	General comments	Clarification on substitutions
	General comments	Minimum attendance required by members for committees
	4.6 Pensions Fund Committee	Members 15 - quorum 5: this seems a very low quorum for such a large investment. Use and appointment of external advisors seems to be delegated to the Investment Sub Committee. Surely it is more appropriate for the Investment Sub Committee to make recommendations to the Pensions Fund Committee to approve the use of external advisors and management companies. Page 66: third bullet point: which new 'employers' is it envisaged might want to join the fund? Should this be 'employees'? If it is employers, are we talking about companies securing contracts and gaining 'Admitted Body Status' to the pension scheme? If so, why not say so? Plus there is no definition of 'employers' in this regard.
5. Executive	5.6.2 Numbering does not appear to be clear in this section Reference is made to 'paragraph' and it will be clearer to say 'section'	This section refers to information provided by Government Departments. 7.1 says that press and public can be excluded but it refers back to 6.2. Procurement contract discussions have in the past excluded press and public but this surely does not comply with 6.2.
	General comments	Cabinet can approve capital schemes of less than £100k. This seems a very high level of spend. Why isn't the full capital programme going to full council for approval? Then Cabinet can just approve variations to the capital programme in relation to schemes up to £100k
6. Joint Arrangements	6.1.1 Terms of reference for joint committees	Rules of the procedure for the joint committee para A it still shows as x members
	6.2	Representation to be determined - this surely should have political balance
7. Overview and Scrutiny	General comments	There are 3 scrutiny committees but only one has full political representation on it due to full political balance due to proportionality rules. This means 2 committees are not fully representative. This should be changed. Corporate Scrutiny has 17 members: People Scrutiny has 15 members and Place Scrutiny has 15 members. Would argue that all scrutiny committees have 17 members to allow for political balance.
	7.2.1	Co-optees - who has been co-opted?
8. Councillors	8.1.2	Attendance needs to be clarified. Effective needs to be clarified. Simply being 'present' may be determined as not being effective.
	8.1.5	Develop and maintain good working relations with leaders of all opposition groups' should be added.
	8.3.4.1	Clarification of declaration of non-pecuniary interests
	8.5.1	The Cabinet is not a political group?

	8.14.2	Clarification required - states call-in by 3 members. Isn't it actually just one member?
	8.14.3	Amend 'within 25 days in the beginning of the consultation period' to include 'within 25 days in the beginning of the consultation period, or any subsequent re-consultation period'. Including re-consultations in the 25 day limit would give parish councils more time to request call-ins.
	General comments	<p>Development under 10 dwellings - call in process? Non material differences?</p> <p>All the following points should face further review - there is concern at parish/ town council level that the new protocol erodes local democracy. It is especially concerning in smaller villages where a development of 9 dwellings can be considered to have considerable impact</p> <ul style="list-style-type: none"> • Only a Ward Member may call-in a planning application • This must be done within 25 calendar days from the beginning of the consultation period • Where we re-consult on amended proposals, this does not trigger a new 25 days consultation period, for the purposes of call-in • A planning reason must be given to call-in an application • The Member who exercised the call-in is expected to attend the planning committee meeting, to explain their reasoning • Some application types are automatically referred to a planning committee: <ul style="list-style-type: none"> • Where the applicant is a relevant officer, or • an elected WNC Member • Where the application is 'major' (10 homes or more, or 1,000 square metres of commercial floorspace) • Where the decision would lead to a significant departure from the local plan • Applications deemed by the Executive Director to require a member decision Some application types cannot be referred to a planning committee, these are where a decision is a matter of fact and/or law, such as a lawful development certificate; or other things such as non-material amendments; and some time-limited things such as certain prior approval applications.
	8.15	If a member is also a member of a parish council and votes on their planning committee, either for or against any application, should this be declared if they are a member of any area or strategic planning committee?
	8	Scheme of Members allowances - check the numbering and also information needs to be inserted.
9. Officers	9.1	Management Structure needs to be reviewed, updated and checked? Should it have names in the roles at least to Assistant Director Level.
	9.4.1 para C	There is no mention of quality or environmental impact or sustainability. These things should be explicit.

	Procurement limits and levels in appendices	Do these need reviewing and amending?
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**West
Northamptonshire
Council**

**Item no:
5**

Draft Revised Constitution

APPENDIX B

To follow