

WEST NORTHAMPTONSHIRE COUNCIL

COUNCIL MEETING

20 May 2021

Report of the Amendments to the Constitution

Report Title	Amendments to the Constitution
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Appendices:

Appendix A – Amendments to the Constitution

1. Purpose

- 1.1 The purpose of this report is to make amendments to the constitution to enable decisions to be made which are necessary for the delivery of services.
- 1.2 To identify the need for a further Constitutional review by the Democracy and Standards Committee to consider wider improvements to the Constitution.

2. Recommendations

- 2.1 It is recommended that:
 - 2.1.1 The changes to the Constitution already made by the Monitoring Officer under her delegated power be noted.
 - 2.1.2 The proposed changes to the Constitution set out in Appendix 1 be agreed
 - 2.1.3 Delegated power be granted to the Monitoring Officer to amend the Constitution to give effect to the agreements for joint arrangements with LGSS (Cambridgeshire, Bedford, Milton Keynes) Northampton Partnership Homes and North Northamptonshire Council.
 - 2.1.4 The Member Officer Protocol be amended to refer to the Member Enquiry Service which has been put in place.
 - 2.1.5 A further review of the Constitution be carried out by the Democracy and Standards Committee and referred to a future meeting of Council.

3. Issues and Choices

3.1 Report Background

The West Northamptonshire Constitution was developed over a relatively short period to ensure that the new Council had governance arrangements in place. It was recognised at the approval stage that further review of the Constitution would be necessary once the new Council had been elected.

4. Changes to the Constitution made by the Monitoring Officer

4.1 The Monitoring Officer has powers to amend the Constitution as follows:

4.1.1 To make consequential amendments to the Constitution to give effect to a lawful decision; as a direct consequence of a change made outside the council eg a change in legislation and to correct an error or resolve an inconsistency. All such changes to be reported to Council.

4.1.2 To Interpret the Constitution where the meaning is uncertain or there is a dispute about its meaning.

4.2 This provision enables necessary changes to be made to ensure consistency and accuracy in the terminology.

4.3 Changes made to the Constitution under this power since Shadow Council on 10th March have been as follows:

4.3.1 The addition of the Director of Public Health to the Areas of Responsibility section of the 9.2 Scheme of Delegation to be consistent with the Management Structure Chart in Part 9.1 of the Constitution.

Amendments to the Contract Procedure Rules

4.3.2 Contracts £250,000 to £1m were to be signed by the Executive Director of Finance – this would be impracticable and so the words ‘or his representative’ were added to enable agreements to be signed by staff within Financial Services.

4.3.3 Sealing was identified as being required on contracts over £100,000 this was a typographical error as it was intended to say £1,000,000 to make it consistent with other parts of the Constitution.

Legislative Change

- 4.3.4 The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No.392 expired on 7th May 2021 and are no longer extant legislation and the sections of the Constitution in particular Rule 53 and Schedule 1 to the CPR have been removed from the Constitution.
- 4.3.5 The Northamptonshire (Structural Changes Order 2020) provided for interim arrangements for West Northamptonshire Council during the interim period including the Shadow Executive and Shadow Leader – the interim arrangements are set out in Part 10 of the Constitution. The interim arrangements expired on 10th May 2021 and therefore Part 10 and all references to the interim period and shadow arrangements have been removed from the constitution.
- 4.4 These changes were made by the Monitoring Officer under her delegated power.

5 Proposed Changes to the Constitution

- 5.1 A number of matters have been identified as necessary changes for the Constitution to operate effectively, as set out below:

Licensing Committee

- 5.1.1 The Licensing Committee is required to have two separate committees a general committee and a ... committee which must be separately constituted. These can have the same membership and can follow each other in terms of timing but they must be separate committees. It is therefore proposed to establish a separate Licensing Committee as set out in Appendix 1.
- 5.1.2 The Licensing Committee has powers which overlap with the officer delegation some changes are necessary to ensure that it is clear which powers are delegated to and will be exercised by officers and which are retained by the Committee. If the Committee wishes to make decisions delegated to officers, it can remove the delegation on individual cases.

Key Decisions Definition

- 5.1.3 The definition of the Key Decision within the constitution is the statutory definition as this avoids the need to amend the definition if the law changes.

It is however helpful to have guidance which sits alongside the statutory definition particularly in relation to the financial value which should be regarded as significant. It is proposed that guidance on the financial value is at £500,000. It is therefore recommended that members approve the guidance as set out in the Appendix 1.

Joint Arrangements Agreements

5.1.4 Agreements have been inherited or developed which set out shared arrangements which require delegations under s101 Local Government Act 1972 to external organisations to carry out powers on behalf of the council. These are as follows:

5.1.4.1 LGSS Partnership

- NCC entered into a revised agreement shortly before vesting day which abolished the previous Joint Committee and put in place partnership arrangements. The agreement revised the delegations required by partner authorities. These partnerships require constitutional changes to enable delegations to be in place. These delegations were not recorded in the Northamptonshire County Council constitution at the time the West Northamptonshire Council was drafted and were therefore not carried across. Delegations need to be included within the constitution to give effect to this agreement.

5.1.4.2 NPH

- Northampton Borough Council had a delegation through a management agreement with Northampton Partnership Homes, the agreement requires a number of delegations to NPH to carry out functions on behalf of the Council and these are set out in the agreement. The Constitution of Northampton Borough Council did not reflect these delegations and they have therefore not been carried into the West Northants Constitution. Delegations need to be included within the Constitution to give effect to this agreement.

5.1.4.3 North Northamptonshire

- The Council agreed the Inter Authority Agreements through its executive in March 2021 however some of the arrangements for the delivery of services, in particular those relating to Highways required delegations to be included within the constitution and these were agreed by the executive but require non-executive approval.

Delegated power is therefore requested to the Monitoring Officer to draft delegations in each case to give effect to the existing agreements with LGSS, NPH and North Northamptonshire Council as necessary.

Powers to the Monitoring Officer

5.1.5 The Constitution includes a power to enable the MO to seal contracts more than £1 million but land deeds require sealing and there is no separate specific power for the MO to attest deeds for land and property. This amendment is set out in Appendix 1.

5.1.6 Parish Councils who have insufficient members are unable to meet. The Council has a power to appoint members of a parish council on a temporary basis so that they can act and are quorate. This power sits under s91 Local Government Act 1972. This power should be delegated to the MO so that the decision to appoint members can be made as necessary and prior to the annual meetings of parishes to enable parish councils to continue to act.

6. Review

6.1 The proposed changes set out the immediate decisions necessary to provide lawful decision making.

6.2 Further review will enable the Constitution to be further improved to reflect the wishes of the new Council during the first year of its operation. Future review will be carried out and any changes recommended by the Democracy and Standards Committee.

7. Implications (including financial implications)

7.1 Resources and Financial

7.1.1 There are no resources or financial implications arising from the proposals.

7.2 Legal

7.2.1 The proposed changes to the Constitution ensures that the Council complies with various statutory obligations.

7.3 Risk

7.3.1 There are no significant risks arising from the proposed recommendations in this report.

7.4 Consultation

7.4.1 There has been no formal consultation in relation to this report.

7.5 Climate Impact

7.5.1 No impacts have been identified.

7.6 Community Impact

7.6.1 No specific impacts have been identified.

8. Background Papers

8.1 There are none.

