

WEST NORTHAMPTONSHIRE COUNCIL

Democracy and Standards Committee

20 October 2022

Report Title	Updates to the Constitution
Report Author	Catherine Whitehead catherine.whitehead@westnorthants.gov.uk

Contributors/Checkers/Approvers

Monitoring Officer	Catherine Whitehead	11/10/2022
Chief Finance Officer (S.151 Officer)	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 provide an update to the Democracy & Standards Committee on a number of proposed updates to the Constitution and request that the committee recommend the revised Constitution 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.
- 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 Democracy and Standards 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

- 5.1 A number of changes to the Constitution are proposed. These are summarised below:

Planning Protocol

5.1.1 The Council agreed a revised Planning Protocol in December 2021. The Chairs of the planning committees and the Cabinet Member with responsibility for Strategic Planning, Built Environment & Rural Affairs met recently to discuss the operation of the protocol in response to feedback from councillors. As a result of this discussion, a number of changes are proposed with the intention of making the planning committee process more accessible to councillors.

5.1.2 Firstly, it is proposed to replace paragraphs 14.6 to 14.8 of the protocol, which set out a requirement for members who have called in a planning application to attend a meeting and, separately, register to speak at that meeting. It is considered that this aspect of the protocol lacks flexibility and has the potential to cause issues where members are unable to attend committee meetings for reasons outside of their control. It is proposed to replace these paragraphs with a new paragraph:

“Members are expected to attend and speak at a planning committee meeting that considers a planning application they have called-in. If a member cannot attend, they should endeavour to ask another member to attend on their behalf or, failing that, submit a written statement to Democratic Services no later than 24 hours before the start of the meeting. Any statements received will be read out by the Democratic Services Officer at the invitation of the Chair. An application that has been called in will still be considered by a planning committee if the member does not attend or does not submit a written statement in lieu of attending.”

5.1.3 Secondly, under 'Protocol for Speaking at Planning Committees' (section 8.6) it is proposed to amend paragraph 1.3 as follows:

“It is necessary to register with Democratic Services as soon as possible and in any event not later than midday on the last working day before the Committee. This applies to all speakers, including with the exception of Ward Councillors. Speakers are required to indicate whether they will be speaking against or in support of an application.”

5.1.4 Lastly, two minor changes are recommended in order to improve clarity and communication. It is proposed to use the term ‘calendar days’ instead of ‘days’ to make it clear that non-working days are also including in the calculation of deadlines (i.e. for calling-in a planning application). An equivalent amendment will also be made to the glossary at the end of the constitution. A single email address will also be provided for members to submit call-in requests.

Scheme of delegation

5.1.5 New statutory guidance was introduced earlier this year which requires local authorities to adopt new practices related to the authorisation of special severance payments for staff. Special severance payments are defined as payments made to employees, officeholders, workers, contractors, and others outside of statutory, contractual or other requirements when leaving employment in public service. Employers may sometimes consider making such a payment in situations where the individual concerned resigns, is dismissed, or agrees a termination of contract.

5.1.6 The following types of payments are likely to constitute Special Severance Payments under the new statutory guidance:

- a) any payments reached under a settlement agreement between the employer and employee to discontinue legal proceedings without admission of fault;
- b) the value of any employee benefits or allowances which are allowed to continue beyond the employee’s agreed exit date;
- c) write-offs of any outstanding loans;
- d) any honorarium payments;
- e) any hardship payments; and
- f) any payments to employees for retraining related to their termination of employment.

Further information can be found in the guidance available [here](#).

5.1.7 An update to Section E of the Scheme of Delegation (Exceptions: Staff and Employment) is therefore required.

	Officer Delegation	Statutory Cabinet Member Consultation	Member Decision	Council Decision
Decision to award a Special Severance Payment as defined by guidance issued under s.26 of the LGA 1999	Up to £20k, decision by Director in consultation with	From £20k and above but below £100k, decision by the Chief Executive in	No	£100k or above

	the Assistant Director for HR	consultation with the Leader of the Council.		
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One Off Remedy Payments in Complaints

5.1.8 From time to time in order to resolve complaints or to ensure that individuals who have highlighted areas for service improvement through raising concerns should receive a single one off payment. There is guidance from the Local Government Ombudsman about the appropriate payments that can be made. There is particular need to ensure guidance is followed in the way such payments are made and the decisions to make those payments. The decision currently sits with every Executive Director but it is proposed that this should be confined to the Executive Director of Corporate Services and exercised through the Assistant Director with responsibility for Complaints to ensure that the approach we take is consistent and in accordance with the guidance.

Functions	Officer
Power to make one off payments as a remedy to a complaint in accordance with national guidance from the Ombudsman.	Executive Director of Corporate Services

An update to Section of the Scheme of Delegation F (Exceptions: Legal) is therefore required.

Contract Procedure Rules

5.1.9 The Council Procedure Rules have some inconsistencies in relation to the terminology and in particular where there is a threshold e.g. over £25,000 and up to £25,000 it is apparent that it is not clear what happens at precisely £25,000. This has been dealt with as a minor amendment under the Monitoring Officer's powers in consultation with the Head of Procurement. Some other minor typographical points have also been picked up. All changes to the Constitution are reported to the next meeting of Council.

Council Procedure Rules

5.1.10 It is proposed to amend the deadlines for the submission of motions and amendments for meetings of the Full Council. At present, motions must be submitted at least 7 clear days before the next meeting of the Council. In practice, this leaves a single day for the Chair, in consultation with the Monitoring Officer, to consider whether motions are lawful and compliant with the requirements set out within the Council Procedure Rules. It is proposed to increase the deadline to noon on the 8th clear working day before the meeting. This will allow sufficient additional time for the necessary checks to take place. It is also proposed to move the deadline for the submission of amendments to two clear working days before the meeting. At present, amendments may be submitted at any time up to the start of the meeting. This does not leave sufficient time for the Chair to consult with the Monitoring Officer and for the necessary checks to take place.

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 Cabinet.

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