

Appendices: 1



NORTHAMPTON
BOROUGH COUNCIL

COUNCIL

5th November 2018

Agenda Status: Public

**Service Area: Borough Secretary &
Monitoring Officer**

Report Title	Proposed Updates to the Constitution
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1. Purpose

- 1.1 The purpose of this report is to recommend to Full Council amendments to the Council's Constitution to reflect changes that have occurred in the Council and to propose other specific amendments.

2. Recommendations

Full Council is recommended to:

- 2.1 adopt the Constitution appended to this report at Appendix 1, subject to additional amendments that will be made to the Scheme of Delegations to Officers to incorporate the decisions made by the Alcohol and Gambling Licensing Committee and the Taxi and General Licensing Committee on 16th October 2018 regarding the delegated powers of Officers;
- 2.2 delegate to the Borough Secretary and Monitoring Officer the power to make typographical, numbering and formatting changes and any other minor changes required to the Constitution, and instruct the Borough Secretary to make the additional changes to the Scheme of Delegations to Officers in respect of licensing activities as referred to in recommendation 2.1, prior to publishing the document;
- 2.3 authorise the Borough Secretary and Monitoring Officer to publish the updated Constitution; and
- 2.4 authorise the Constitution Review Working Party ('CRWP') to review changes to the Constitution on an ongoing basis and present any further review to Full Council as appropriate.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The Council's Constitution is a fundamental governance document. Constitutions by their nature reflect the period in time in which they were agreed and can quickly become out of date, particularly where there are changing external influences. It is therefore important that the Constitution is kept under review and updated periodically.
- 3.1.2 The Constitution is a fluid document and proposed additions or changes are brought before the Constitution Review Working Party prior to the draft amendments being submitted to Council for approval.
- 3.1.3 The CRWP has been meeting to discuss changes and updates to the Constitution which would improve and update the Council's internal governance arrangements, reflect changes that have occurred within the Council and give effect to statutory provisions and relevant guidance.
- 3.1.4 The membership of the CRWP is as follows:
- Councillor Beardsworth
 - Councillor Birch
 - Councillor Larratt
 - Councillor Oldham
 - Councillor Russell
- 3.1.5 On 22nd January 2018, Full Council agreed amendments to the Constitution following the CRWP's initial review of the changes. After the CRWP met on 10th May 2018 and considered further changes to the Constitution, these were taken forward to Full Council on 9th July 2018 for approval. The CRWP last met on 10th October 2018 to consider proposed changes to be presented to this meeting of Full Council.

3.2 Decision Details

- 3.2.1 A copy of the amended Constitution is attached at Appendix 1. For Councillors' convenience, the document has track changes. The entire document will be re-numbered and accurately cross-referenced as required prior to its publication.
- 3.2.2 A significant number of the changes made to the Constitution are to reflect the senior management restructure that took place in September 2018. This restructure resulted in the removal of Director posts from the structure. Directors were referenced throughout the Constitution in a number of places. These references have been removed and replaced with another appropriate Officer title following consultation with the Chief Executive.
- 3.2.3 The corporate management team now comprises the Chief Executive and six Heads of Service. There has been restructuring at the Head of Service level with some functions moving between Heads of Service. One of the Head of Service posts is the Chief Finance Officer, who is the designated Section 151 Officer. This position was brought in house in June 2018, (having previously

been provided by LGSS). This change is covered in the proposed amendments to the Constitution.

By way of explanation, the key changes to the Constitution are as follows:

3.2.4 **Part 2 - Articles to the Constitution**

Article 14 – Officers – this Article sets out the Council’s Officer structure and the areas of responsibility of the Officers who are part of the Council’s Corporate Management Team. It has been amended to remove reference to Directors and instead includes reference to each of the Heads of Service and their main areas of responsibility.

3.2.5 **Part 3 – Responsibility for Functions**

3.2.5.1 Responsibility for Council Functions

Licensing

On 10th September 2018, Full Council agreed to the appointment of a further Licensing Committee comprised of the same members as the existing Licensing Committee. There will now be an Alcohol and Gambling Licensing Committee and a separate Taxi and General Licensing Committee. Full Council agreed the powers to be delegated to each of the Licensing Committees.

The powers delegated to each of the Licensing Committees are now shown as amendments in the Responsibilities for Functions table in this part of the Constitution.

3.2.5.2 Leader’s Scheme of Delegations

The Leader of the Council as the Senior Executive Member is able to determine their own Scheme of Delegations for executive functions. The Leader may change their Scheme of Delegations at any time (and must comply with the notice requirements set out in the Constitution). The updated draft Leader’s Scheme of Delegations is therefore only brought to Full Council for noting. In summary, the main draft amendments to the Scheme, are as follows:

- a) To ensure that it is clear on the face of the Scheme that the Leader is able to determine their own Scheme of Delegations for executive functions.
- b) To reflect the Cabinet Member responsibilities agreed at Full Council in May 2018, including the split of the Regeneration, Enterprise and Planning responsibilities between two Cabinet Members.
- c) To replace references to Directors with references to Heads of Service (as individuals that Cabinet Members may consult prior to making a decision). This is necessary following the senior

management restructure that took place in September 2018 that removed Directors from the Council's management structure.

3.2.6 Part 4 – Rules of Procedure

3.2.6.1 The Financial Regulations

The Financial Regulations provide the framework for managing the Council's financial affairs and ensure the efficient, effective and economic use of resources. Although the Financial Regulations were updated and approved by Full Council in July 2018, they require further amendment. The Financial Regulations set out the roles and responsibilities of Officers in relation to financial management, financial planning and financial control. Following the removal of Director posts from the Council's management structure, the responsibilities set out in the Financial Regulations need to be updated.

The Chief Finance Officer has reviewed the Financial Regulations. The proposed updates include changes to levels of delegated authorities for officers recognising the removal of Directors and a very small flat management structure. This is to ensure that the Council can operate flexibly, whilst still retaining good governance.

Some associated proposed changes have been made to the delegations to the Chief Finance Officer in the Scheme of Delegations to Officers in Part 8 of the Constitution.

3.2.6.2 The Contract Procedure Rules – the Contract Procedure Rules set out the rules that must be followed when the Council is procuring goods, services or works. The Contract Procedure Rules were updated and approved by Full Council in July 2018 to ensure that they were in accordance with the latest Regulations and case law. The Rules set out the responsibilities and authority levels of Officers in the procurement process. Responsibilities and authority levels that previously rested with Directors have been reallocated.

3.2.6.3 The Cabinet Procedure Rules - Following the changes made in January 2018, the Cabinet Procedure Rules have been amended to incorporate the language of the relevant Regulations (The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012) into the language of the Constitution, ensure the requirements of the Regulations are covered, to remove repetition and re-order some of the content. No substantial changes have been made.

3.2.6.4 The Employment Procedure Rules – The Employment Procedure Rules and the reference to the functions of the Appointments and Appeals Committee in the Responsibility for Functions section in Part 3 of the Constitution have been amended. The Employment Procedure Rules set out the processes involved in the appointment and dismissal of Officers.

The rules for senior Officers are different from the processes applied to other Officers. In particular, there is Member involvement in the appointment and dismissal of more senior Officers through the Appointment and Appeals Committee. Following the removal of Directors from the management structure, the changes made mean that the Appointments and Appeals Committee will continue to deal with issues concerning the Chief Executive, Chief Finance Officer, Monitoring Officer and other Heads of Service, and as before, will not have involvement in issues concerning more junior Officers.

3.2.7 Part 5 - Codes and Protocols

The amendments made to this Part are minor and include minor clarifications and updates to roles following the senior management restructure.

3.2.8 Part 6 – The Members’ Scheme of Allowances

The Members’ Scheme of Allowances has been updated to reflect the new Scheme of Members’ Allowances agreed by Full Council in September 2017. The Borough Secretary and Monitoring Officer was given the delegated authority to amend the Scheme to reflect Full Council’s decision and has exercised this delegated authority. Members are asked to note this update.

3.2.9 Part 7 – Management Structure

This part of the Constitution shows the Council’s senior management structure as a diagram. The diagram has been updated.

3.2.10 Part 8 – Scheme of Delegations to Officers

3.2.10.1 The Scheme of Delegations to Officers empowers Officers to exercise powers on behalf of the Council and as such is a critical aspect of the Constitution.

3.2.10.2 The Scheme of Delegations is structured in such a way that the most senior Officers of the Council have the broadest powers and the ability, (subject to a number of conditions), to authorise other Officers of the Council to carry out functions on behalf of the Council. In addition, narrower, more specific powers are delegated to other Officers of the Council. It is not proposed that the overall architecture of the Scheme is amended.

3.2.10.3 However, the Scheme of Delegations to Officers still requires a significant amount of amendment. In particular, it is necessary to ensure that the Scheme reflects the current Officer structure of the Council, that Officers have an appropriate level of delegation and relevant delegated powers to enable them to carry out functions on behalf of the Council. The Scheme also needs to take account of legislative change.

3.2.10.4 There are also certain service areas that require more significant changes in the powers delegated to Officers within that area, for a

number of reasons, such as changes in emphasis in the work carried out to reflect corporate priorities, changes in legislation and the length of time that has elapsed since the last review of the delegated powers in question.

- 3.2.10.5 In terms of the senior management restructure, the Chief Executive has indicated that Heads of Service should be able to exercise the broad powers that were previously exercisable only by the Chief Executive, Directors and the Borough Secretary.
- 3.2.10.6 To date, the process of reallocating existing service area specific delegations following the restructure and other changes in Officer responsibilities, is broadly complete. Some additional changes have also been made.
- 3.2.10.7 While Full Council is asked to approve the Scheme of Delegations to Officers at Appendix 1, it should be noted that the work in updating the Scheme is ongoing and further updates will be brought back to Full Council for approval in due course.
- 3.2.10.8 In particular, it is anticipated that a report will be brought to a future meeting of Full Council for consideration regarding the powers delegated to Officers within the Housing and Wellbeing service area.
- 3.2.10.9 On 16th October 2018, each of the Licensing Committees (the Alcohol and Gambling Licensing Committee and the Taxi and General Licensing Committee) made decisions regarding which licensing activities would be delegated to Officers (as permitted by legislation). Therefore, Full Council is asked to adopt the Constitution appended to this report at Appendix 1, subject to additional amendments that will be made to the Scheme of Delegations to Officers to incorporate the decisions made by the Alcohol and Gambling Licensing Committee and the Taxi and General Licensing Committee on 16th October 2018 regarding the delegated powers of Officers.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 There are no policy implications arising directly from this Report.

4.2 Resources and Risk

- 4.2.1 There are no resource implications arising directly from this report. As the Constitution is an important governance document for the Council, keeping it up to date, will facilitate clarity and decision making, clarify responsibilities and accountabilities and help to better manage legal and financial risks.

4.3 Legal

4.3.1 The Council has a legal responsibility under the Local Government Act 2000 (as amended) to prepare its Constitution and keep it up to date. Other legal implications are referred to in the body of the Report.

4.4 Equality

4.4.1 There are no equalities implications arising directly from the proposed changes to the Constitution in this Report.

4.5 Other Implications

4.5.1 None.

5. Background Papers

4.1 The Constitution

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