



Council
14 May 2012

Subject: Annual Review of the Constitution

Report by:

Monitoring Officer

Contact Officer:

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Purpose / Summary:

The purpose of the report is to recommend to Council the proposed amendments to the Constitution.

RECOMMENDATION(S):

That Council be recommended to approve amendments to the Council's Constitution as detailed in Appendix 1 and that these changes come into immediate effect.

IMPLICATIONS

Legal: The Council is required by law to prepare and keep up to date the Constitution.

Financial: There are only very limited financial implications as a result of making amendments to the constitution. These relate to the resources needed to make changes to electronic records and to the limited printing costs of producing amended pages for paper copies of the Constitution.

Staffing: None arising from this report but the Constitution sets out the manner in which staffing matters should be dealt with.

Equality and Diversity including Human Rights : None arising from this report.

Risk Assessment: Failure to amend the constitution to reflect changes could lead to a risk of legal challenge and reputational risk for the Council.

Climate Related Risks and Opportunities : None arising from this report.

Title and Location of any Background Papers used in the preparation of this report:
Accessed through WLDC website "[Meetings, agendas, minutes and reports](#)"

Call in and Urgency:

Is the decision one which Rule 14 of the Scrutiny Procedure Rules apply?

Yes

No

Key Decision:

Yes

No

1 Introduction

- 1.1 The Council is required by law to prepare and keep up to date a Constitution which explains how the Council operates, how decisions are made and the procedures which are to be followed to ensure that these are efficient, transparent and accountable to local people.
- 1.2 In line with my duty to annually review the Constitution the following additions/amendments are proposed to come into effect from the meeting of Annual Council.
- 1.3 At the Council meeting on 21 November 2011 alterations to the Constitution were approved following changes to the Council's management structure at Director level. At that time it was noted that further alterations would be required to reflect the future changes to the Service Manager structure. These changes have been managed in the interim by the use of Directors' delegations.
- 1.4 Subsequently there have been further changes in the Council's establishment. A further report setting out the Scheme of Delegations will be presented for Council approval in July.
- 1.5 As a comprehensive review of the Constitution was undertaken last year only a small number of minor housekeeping amendments are being proposed as detailed at Appendix 1:-
- 1.6 The impending changes to the Standards regime, as reported to Council in January 2012 will necessitate Constitutional changes in due course.

2. Governance and Audit Committee

- 2.1 The report was considered by the Governance and Audit Committee at its meeting on 12 March 2012.

“RESOLVED that the amendments to the Council's Constitution as detailed in Appendix 1 to report GA.39 11/12, subject to the inclusion of the further suggested revisions, as detailed at (i) and (ii) below, be **RECOMMENDED** to **COUNCIL** for approval and adoption with immediate effect.

(i) Part IV/Page 8 (Licensing and Regulatory Committee Terms of Reference)

The addition of the following function:

“Recommending the setting and adoption of policies relating to Taxi and Private Hire Licensing to the Prosperous Communities Committee.”

Reason: For clarity and consistency, in detailing the Committee's role in setting Policies in each area of its work.

(ii) Part IV/Page 25 (Chief Executive's Delegations – bullet point no. 4)

The words “In the Information Booklet for Members” be replaced with “to Members within five working days of the decision being taken”, so that the sentence, reads

“Any decision taken by the Chief Executive under this delegated power shall be reported to Members within five working days of the decision being taken”

Reason: The Information Booklet for Members is no longer in existence and to address concerns raised, regarding the timeline for notifying Members in respect of decisions of this nature.

Note : Proposed deletions are shown with lines through. Additions are highlighted

1. Area Forums – the following amendments and additions are proposed to reflect the splitting of the District into six overall areas.

i) Article 1 Part I page 2

Implicit in the working arrangements is the recognition of the right of the community to be involved in the Council's decision making processes. Members of the public and other stakeholders/community organisations can exercise this right through the Council's consultation mechanisms such as the Citizens' Panel ~~or Local Area Forums~~. These arrangements are set out in more detail in the Council's Consultation Strategy.

ii) Article 3 Part II page 7

(c) The council also has arrangements in place for the public to participate in meetings of the policy committees and the Development Management Committee.

~~(d) The six area forums provide an opportunity for the public to participate and learn about the West Lindsey Local Strategic Partnership.~~

(d) The Council is committed to working at a local level to support its communities and has split the District into six overall areas. These areas are:-

- Caistor
- Fosdyke
- Gainsborough
- Market Rasen
- Trent
- Witham

and have a dedicated officer and senior manager responsible for co-ordination.

(e) The West Lindsey Citizens Panel of about 1,000 residents provides ideas, opinions and feedback to the council on its services.

iii) **Responsibility for Functions Part IV page 4**

Prosperous Communities Committee

1. The council's role in the community around health and crime and disorder including the well being of the community and the development of partnerships.
2. The council's approach to community interaction and engagement including the geographic focus within the six Area Forums **designated areas**.

2. **Development Management Committee – Responsibility for Functions Part IV page 4**

Following a number of representations it is proposed that the Development Management Committee revert back to the name of **Planning Committee**, which is considered to be more user friendly.

3. **To agree the following additions and amendments, as highlighted, to the Budgetary and Policy and Contract Procedure Rules.**

i) **Budgetary and Policy Framework Procedure Rules Part V page 22**

1. **The Framework for Decision Making**

1.1 The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or policy framework is in place, it will be the responsibility of the policy committees to implement it.

2. **Process for Developing the Framework**

2.1 The process for developing the budget and policy framework is –

a) In summer each year, following the approval of the Corporate Plan priorities by Council, the Policy and Resources Committee will agree a programme for establishing revising the Medium Term Financial Plan and determining a budget for the following year. Within this programme, the Committee may identify strategic policy or resource issues which it wishes to request studies by the Overview and Scrutiny Committee.

b) Policy studies undertaken by the Overview and Scrutiny Committee should engage as widely as possible with citizens and stakeholders in the community and use a variety of methods to gauge public views. The results should be presented to the

relevant policy Committee, which will then draw on them in developing proposals for Council.

c) In Autumn each year the draft Medium Term Financial Plan will be prepared to clearly link the Council's resources with priorities.

d) In March the Council will approve the Medium Term Financial Plan and set the Council Tax for the coming year.

e) Between March and the summer the Corporate Plan priorities will be reviewed and revised where required.

3. Virement

3.1 Steps taken by a Committee or Officers, or joint arrangements implementing Council Policy, shall not exceed the approved budgets allocated to each cost centre. However, virement between cost centres is permitted under the Council's Financial Procedure Rules as set out in this Constitution, subject to the requirements and limits there specified.

4. In-Year Adjustments

4.1 The responsibility for agreeing the financial framework lies with the Council, and decisions by policy committees or officers with delegated authority must be inline with it. Changes in year to any policy or strategy that form the policy framework must be agreed by the relevant policy committee or by the Council except –

a) where necessary to ensure compliance with the law, ministerial direction or government guidance; or

b) in relation to the policy framework in respect of policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

ii) Contract Procedure Rules Part V page 49-50

Local Suppliers

For the purpose of these regulations a local supplier is defined as those "whose trading premises are located in Lincolnshire and/or a 20 mile radius of the County".

Exceptions

All staff involved in the purchase and/or supply of goods and services must follow these Procedure Rules. However, exemptions can be agreed by either

- a) The appropriate Committee, or
- b) The Management Team and the Chief Finance Officer

If the total value of the contract is over the EU Threshold legal advice must be sought from Legal Lincolnshire before proceeding with the exception process and the contract.

- i) An example of where option (a) might be needed is - where it is felt that a tendering exercise would not achieve best value. A report to Committee would need to demonstrate this in terms of cost, performance and quality comparisons, market conditions and any other relevant factors. The report should provide the basis for subsequent audit scrutiny.

- ii) Option (b) will be appropriate only in the following circumstances -

There are unforeseen events – for example, the breakdown of equipment or delayed deliveries,

A quotation or tender differs marginally from the specification but nevertheless represents the best value for West Lindsey,

There is only one potential supplier or contractor,

If the value of the contract is below £25,000.

If option (b) is used, a written request must be submitted to the Management Team and the Chief Finance Officer detailing the reasons for the request. If approved, the note must be signed by a member of the Management Team, on behalf of the Management Team and the Chief Finance Officer and retained on file. Additionally, where the value of the contract is over the EU Threshold which should be confirmed with Procurement Lincolnshire) a report must be taken to the relevant Committee to inform it of the action taken and the reasons for taking it.

iii) **Rule 4. Contracts Under £10,000 Part V page 53**

4.1 **Contracts up to £5,000**

Service Managers must ensure that best value for West Lindsey is obtained. A local supplier must be used where appropriate.

4.2 **Contracts from £5,001 to £10,000**

Service Managers must ensure that best value for West Lindsey is obtained.

A minimum of two written quotations are required. One of the quotations must be from a local supplier and local supplier must be used where they provide the most economically advantageous offer.

iv) **Rule 5. Contracts from £10,000 to £75,000 Part V page 54**

5.1 **Contracts from £10,001 to £25,000**

Service Managers must ensure that best value for West Lindsey is obtained.

A minimum of three written quotations are required. One of the quotations must be from a local supplier and local supplier must be used where they provide the most economically advantageous offer.

The form of contract will be a properly completed official West Lindsey District Council order raised through the Financial Management System Purchasing Module. An accompanying letter or e mail, cross-referenced from the order, should give further details if necessary.

5.2 **Contracts from £25,001 to £75,000**

At this level three quotations are required.

Quotations must be based on a request for quotation (RFQ) document including a written specification with simplified Terms and Conditions.

Contracts above £25,001 must be notified to the Financial Services Manager who will maintain a register of such contracts.

To demonstrate an open and transparent process, contracts above £25,001 must be advertised on www.sourcelincolnshire.co.uk Advice should be obtained from the Procurement Team on the process to be followed.

v) **Responsibility for Functions Part IV page 22-23**

Sub-Delegation

14. Any power delegated to a Director in the absence of that Director may be exercised by the Chief Executive.
15. Any power delegated to a Service Manager in the absence of that Service Manager may be exercised by the relevant Director.

Politically Sensitive Issues

16. The existence of a delegation to a Director or Service Manager shall not require that officer to take a decision on that issue. Directors and Service Managers need to be aware of particularly controversial issues of concern to the Committees of the Council. In such circumstances he/she may refer the matter for guidance or decision by the Committee or the Council if he/she considers it is appropriate to do so at the earliest opportunity. In so doing the Director or Service Manager shall advise the members concerned of the extent of his/her delegated powers relating to the matter.