



Annual Council

20 May 2019

Subject: Annual Constitution Review and Monitoring Officer's Annual Report

Report by:

Monitoring Officer

Contact Officer:

Alan Robinson
Strategic Lead for Democratic and Business
Support and Monitoring Officer
01427 676509

Katie Coughlan
Senior Democratic & Civic Officer
01427 676594
katie.coughlan@west-lindsey.gov.uk

Purpose / Summary:

The purpose of the report is to recommend to Council, the proposed amendments to the Constitution, following consideration by the Governance and Audit Committee at its meeting on 16 April 2019.

For the first time this year, the report also includes an Annual Report from the Monitoring Officer which sets out the governance arrangements in place to manage Commercial and Economic Growth; information regarding the way in which the Council has responded to General Data Protection Regulations (GDPR) which came into effect on 25th May 2018; presents a data analysis of the number, nature and outcome of complaints received under the Code of Conduct; and advises of recent appointment made in respect of governance matters. The report aims to provide an holistic overview of all governance associated matters and Council are asked to note this information.

The Governance and Audit Committee also approved amendment(s) made to the Financial and Contract Procedure Rules, constitutionally Council are asked to note these as part of the Annual Review.

RECOMMENDATION(S):

- (a) That Members note the outcome of the annual review.**
- (b) That the amendments detailed at Section 2 of the report and recommended by the Governance and Audit Committee be agreed by Council for immediate adoption and implementation; and**
- (c) That the proposed amendments, raised through the review process, but which are not being progressed, detailed at Section 2.8 be agreed by Council for non-inclusion; and**
- (d) That Council note the amendment made to the Contract and Procurement Procedure Rules detailed at Section 3.2 of the report (the full set of Procedure rules are attached at Appendix 2 for completeness) as agreed by Governance and Audit Committee at its meeting on 16 April 2019.**
- (e) That Members note the progress made with regards to those areas of work agreed for further development in the 2018/19 review (Section 4) and the further planned work for 2019/20 detailed at Section 5 of the report; and**
- (f) That Members Agree the governance outlined in this report, in respect of managing Commercial and Economic Growth, provides assurance that the council is taking appropriate mitigating measures against the risks identified in its commercial approach and note the updated position provided at Section 6 of the report;**
- (g) That Members note the statistical data provided within the report in respect of the number, nature and outcome of the Code of Conduct Complaints at Section 7 of the report; and**
- (h) That Members note the appointment information contained in Section 8 of the report, which will be subject to separate reports being ratified by Annual Council in May 2019.**

IMPLICATIONS

Legal:

The Council is required by law to prepare, and keep up to date, the Constitution

Financial : FIN/234/19

There are only very limited financial implications as a result of making amendments to the constitution, these costs can be met from existing budgets

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 :

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:

Annual Constitution Review 2017/18
Effectiveness of Committees' Surveys

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman) **Yes** **No**

Key Decision:

A matter which affects two or more wards, or has significant financial implications **Yes** **No**

1 Introduction and Summary

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 Article 14 of the Constitution stipulates how such a review should be conducted namely:

- a) by observing meetings of different parts of the Member and officer structure;
- b) by undertaking an audit trail of a sample of decisions;
- c) by recording and analysing issues raised with the Monitoring Officer by Members, officers, the public and other stakeholders;
- d) by comparing practices in this authority with those in comparable authorities, or national examples of best practice; and
- e) by undertaking a review of each committee’s effectiveness.

1.3 As a comprehensive review of the Constitution was undertaken in 2011, 2014 and 2017, and a large number of amendments being made to large sections of the document in 2018 a number of relatively minor amendments are being proposed as detailed at Section 2 of the report.

1.4 On this occasion some amendments proposed throughout the review are not being proposed for progression, these are detailed at Section 2.8 of the report together with the rationale.

1.5 As part of the Annual Review last year Members agreed a list of associated work to be undertaken during the 2018/19 civic year namely:

-
- The role of the C and I Committee – A review of its role and effectiveness
- Member Development
- Members ICT – including the possibility of providing West Lindsey owned and issued hardware.

Section 4 of the report provides a brief update of the work which was undertaken and the arising outcomes. Reviewing the role of the C and I Committee has resulted in some proposed amendments these are

contained in the Table at Section 2, alongside all other proposed amendments.

- 1.6 Section 5 details associated work planned to be undertaken during the 2019/20 civic year.
- 1.7 An Audit of the Council's Procurement Procedures was undertaken in April 2018 which resulted in considerable amendments being made to the Contract and Financial Procedure Rules in the last Constitution Review. A number of significant amendments were also made to reflect the Council's commercial agenda. Only one relatively minor amendment is being proposed as a result of this review, with staff and stakeholders alike considering them to be fit for purpose, clear and easy to understand/use. Section 3.2 provides further details.
- 1.8 Section 6 of the report sets out the governance arrangements in place to manage Commercial and Economic Growth and information relating to how the Council has responded to the requirements of GDPR. Section 7 presents a data analysis of the number, nature and outcome of complaints received under the Code of Conduct and Section 8 advises of recent appointments made.
- 1.9 These sections are new additions to the report this year and aim to provide an holistic overview of all governance associated matters.
- 1.10 Historically the Annual Review of the Constitution has also included a list of in-year changes already agreed by Council for noting. With the introduction of Mod.Gov and its ease of re-publishing sections of the document independently, any changes agreed in-year have throughout 2018/19 been published immediately and therefore it is not considered necessary to include these again. The relevant reports have been included in the list of background papers should Members wish to review these.

2. Proposed Amendments to the Constitution

- 2.1 In reviewing the Constitution, the actions detailed at 1.2 above have been undertaken using a variety of methods including: -
 - a) attending a variety of Committee Meetings in order to review proceedings;
 - b) collating feedback from stakeholders and interested parties, including that received in formal complaints or alleged breaches of the Code, whether upheld or not;
 - c) Seeking the views of Senior Officers and Team Managers who work within the Constitution;
 - d) Surveying Members as to the effectiveness of the Committees to which they are appointed;
 - e) Reviewing other "fourth-option" Council's Constitutions; and
 - f) Holding workshops to focus on particular matters.

- 2.2 This has resulted in several, yet the majority minor, amendments having been made throughout the Document, but primarily to Part IV and V.
- 2.3 The review also prompted comments relating to the way in which the Public Participation at Planning Committees is operated. Whilst this document sits outside of the Constitution, the proposed amendments have been included within the table and the amended leaflet is appended to the report for approval
- 2.4 Arising from the feedback received/issues identified the following additions/amendments are proposed to come into immediate effect.
- 2.5 The Table below sets out the main proposed amendments for consideration along with the rationale for each.

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION

Ref	Section /Page Ref	Amendment required	Reason for Amendment
	Part IV (Responsibility for Functions ED of Operations – Operational Services) – page 37	<p>To AMEND current delegation 5 by ADDING the words “Market Street, Church Street and Lord Street.</p> <p>Amended delegation will read “To approve the dates of any extra markets in Gainsborough Market Place, Silver Street, Market Street, Church Street and Lord Street, at any time of the year, in consultation with the Chairmen of the Corporate Policy and Resources and Prosperous Communities Committees.</p>	For clarity/avoidance of doubt and to ensure that all areas where markets can be held are covered by the same delegation
	Part IV (Responsibility for Functions ED of Resources) – (Chief Finance Officer) page 32	<p>To AMEND current delegation 28 by ADDING the words Sections 43,45, 47 and 48 of the Local Government Finance Act 1988 as amended by the Localism Act 2011 and the National Non-Domestic Rating (Discretionary Rate Relief) Regulations 1989 (SI 1989/1059).</p> <p>Amended delegation will read “To determine applications for national non-domestic rate discretionary relief in accordance with Sections 43,45, 47 and 48 of the Local Government Finance Act 1988 as amended by the Localism Act 2011 and the National Non-Domestic Rating (Discretionary Rate Relief) Regulations 1989 (SI 1989/1059) and where the application accords with the Council’s approved policy framework.</p>	To ensure all current regulations under which the function operates are reflected.
	Part IV (Responsibility for Functions) (Corporate Delegations Table) 9.5 – Writing off Debts – page 52	<p>To AMEND the values within the notes to £2,500 from £1,500</p> <p>The amended note will read “Up to £2,500; Chief Finance Officer Over £2,500; Corporate Policy and Resources Committee decision”</p>	In order that the delegation in the table matches Delegation NO.4 of the Chief Finance Officer (Page 30) which currently states write off debt up to £2,500
	Part IV (Responsibility for Functions) (Corporate Delegations Table) 7.6 –	To AMEND the note by adding the words “ note compensation arising from LGO complaints is a function of the Governance and Audit – (terms of reference no.4 page 9) ”	For the avoidance of doubt /for clarity

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION

Ref	Section /Page Ref	Amendment required	Reason for Amendment
	Authorising Compensation – page 50		
	Part IV (Responsibility for Functions) (Corporate Delegations Table) 7.4 – Incurring Expenditure in ‘state of emergency’ or in order to ensure business continuity – page 50	<p>To INSERT a ✓ in the Strategic Lead Column and AMEND the notes to read: - “This delegation only applies to Strategic Leads when they are carrying out the role of Strategic Commander in respect of emergency planning”</p> <p>The amended Note will read “Financial Procedure rules, where practicable. CMT and CFO in consultation with Chairman of Corporate Policy and Resources Committee. This delegation only applies to Strategic Leads when they are carrying out the role of Strategic Commander in respect of emergency planning”</p>	Currently there are two Strategic Leads who are trained to undertake the strategic commander role. This addition is to ensure that should they be “on duty” they have the appropriate approvals to spend.
	Part IV (Responsibility for Functions) (Corporate Delegations Table) 7.5 – Incurring Expenditure in taking immediate urgent action in responding to a civil emergency and severe weather – page 50	<p>To INSERT a ✓ in the Strategic Lead Column and AMEND the notes to read: - “This delegation only applies to Strategic Leads when they are carrying out the role of Strategic Commander in respect of emergency planning”</p> <p>The amended Note will read “Financial Procedure rules, where practicable. CMT and CFO in consultation with Chairman of Corporate Policy and Resources Committee. This delegation only applies to Strategic Leads when they are carrying out the role of Strategic Commander in respect of emergency planning”</p>	Currently there are two Strategic Leads who are trained to undertake the strategic commander role. This addition is to ensure that should they be “on duty” they have the appropriate approvals to spend.
	Part IV (Responsibility for Functions ED of Resources) – (Monitoring Officer) page 33	To ADD a new delegation namely “ to undertake the role of Strategic Commander and all associated duties in respect of Emergency Planning and Business Continuity ”.	To reflect this additional duty carried out.

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION

Ref	Section /Page Ref	Amendment required	Reason for Amendment
	Part IV (Responsibility for Functions ED of Operations – Planning and Housing Enforcement) – page 41	To AMEND current delegation 1 by REPLACING the word housing with homeless. The amended delegation will read “To determine homeless applications within the terms of the current homelessness legislation”	Possible drafting error
	Part IV (Responsibility for Functions ED of Operations – Planning and Housing Enforcement) – page 41 / 42	To ADD the Homeless Act 2002 as amended by The Homeless Reduction Act 2017 to the list of legislation contained under delegation 5	To reflect current legislation under which the Team works
	Part IV (Responsibility for Functions ED of Operations – Public Protection) – page 34/35	To ADD the Equality Act 2000 to the list of legislation contained under delegation 4	To ensure all legislation which the team works with is reflected
	Part IV (Responsibility for Functions – Housing Appeals Board Terms of Reference) Page 23	To firstly AMEND the name of the Housing Appeals Board to Simply “Appeals Board” Then To ADD the following sub notes to the Committee’s Terms of Reference “Any member of the Appeals Board may be called upon to sit on the Appeals Board to deal with appeals under the 5 terms of reference for the committee. (three Members plus one reserve). Meetings of the Appeals Board will be convened as and when necessary. The provisions of the Local Government (Committees and Political	The Board’s Terms of Reference cover more than Housing Appeals so therefore the name is more reflective. For the first time in a number of years the Housing Appeals Board met this year. The Board currently comprises 6 Members. In the absence of this note it resulted in the in Hearing having to be heard by all Members of the Committee. This is both un-wieldy and over whelming for the appellant.

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION			
Ref	Section /Page Ref	Amendment required	Reason for Amendment
		<p>Groups) Regulations 1990 do not apply.</p> <p>The quorum shall be three Members.”</p> <p>Note: - If this amendment is approved a full find and replace will be undertaken within the Constitution to ensure all references to the Board are amended.</p>	<p>This sub note would mean the Appeals Boards operates on similar basis to both Licensing Hearings and Taxi Hearings.</p>
	<p>Part V (Rules of Procedure – Quorum of Committees /Sub Committees) Page 15</p>	<p>The following words be ADDED to procedure rule 26.1 “ and the Governance Audit Committee whose quorum will be three members”</p> <p>The amended procedure rule will read: “26.1 The quorum of a committee meeting will be one quarter of the whole number of Members, provided that in no case shall the quorum of the committee be less than four voting Members, with the exception of the Standards Sub-Committee which is subject to paras (1) & (2) below..... and the Governance Audit Committee whose quorum will be three members”</p>	<p>The Governance and Audit Committee is traditionally a smaller Committee and for the past four years has comprised 6 Members, on occasion meeting the quorum of 4 has been “touch and go” and therefore this minor amendment will make the likelihood of not being quorate less.</p>
	<p>Part V (Rules of Procedure – Quorum of Committees /Sub Committees) Page 15</p>	<p>Procedure Rule 26.2 be AMENDED to simply read “the quorum of all sub-committees will be three” as opposed to “26.2 The quorum of a sub-committee meeting will be one quarter of the whole number of Members, provided that in no case shall the quorum of the sub-committee be less than two voting Members with the exception of the Licensing Sub-Committee where the quorum will be three.</p>	<p>Ease of operation and clarity. The Council only currently has 3 sub-committees, licensing sub, regulatory sub and standards sub. Standards sub is covered separately by procedure rule 26.1 and both the other two sub-committees have notes in their terms of reference to say they can only operate with 3 Members. The rule as currently drafted therefore seems over complicated.</p>

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION

Ref	Section /Page Ref	Amendment required	Reason for Amendment
	Part V (Chairmen of Committees Election) Page 14	<p>Procedure Rule 23.1 be AMENDED by ADDING the words “by those Committee Members present”</p> <p>The amended procedure rule will read “In the absence from a meeting of the Chairman (and Vice-Chairman if elected), a Chairman shall be appointed for that meeting by those Committee Members present”</p>	Historical drafting error identified at Council Meeting on 4 March
	Part IV (Responsibility for Functions – Licensing Committee Terms of Reference) Page 10	<p>The following sub note be ADDED to the Committee Terms of Reference “ Members who have not received the appropriate training will not be permitted to sit on the Committee when it is determining Policy matters and will not be eligible to sit on Hearings heard under the Sub-Committee arrangements”</p>	Ease of Operation and Clarity to all.
	Part IV (Responsibility for Functions – Regulatory Committee Terms of Reference) Page 11	<p>The following sub note be ADDED to the Committee Terms of Reference “ Members who have not received the appropriate training will not be permitted to sit on the Committee when it is determining Policy matters and will not be eligible to sit on Hearings heard under the Sub-Committee arrangements”</p>	Ease of Operation and Clarity to all.
	Part IV (Responsibility for Functions – Remuneration Panel Terms of Reference) Page 22	<p>The following bullet point be REMOVED</p> <p>“• The Remuneration Panel will report in the first instance to the Governance and Audit Committee prior to referral to full Council.”</p>	This is a historical drafting error, the requirement to report to the Governance and Audit Committee was removed from the Governance and Audit Committee’s Terms of Reference in last year’s review, as it led to the independence of the Panel being questioned. Unfortunately it was not removed from the Remuneration Panel’s Terms of Reference.

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION			
Ref	Section /Page Ref	Amendment required	Reason for Amendment
	Part VII – Management Structure	Oliver FT and Michelle Howard be removed from the management structure and the necessary amendments be made namely, inclusion of: - Rachel Parkin, Di Krochmal (Housing Services) Rachael Hughes, Russell Clarkson (Planning Services) Phil Westmorland (Building Control)	To reflect current structure. Full amended structure is attached as Appendix 5 to this report.
	Part IV (Responsibility for Functions – Challenge and Improvement Committee Terms of Reference) Page 16	The name of the Committee be AMENDED to “the Overview and Scrutiny Committee” NOTE if approved a full” search and replace “ check will be undertaken on the Constitution to find all references to the former name and ensure they are amended to reflect the new name.	As a result of the outcome of the review undertaken during 2018/19 and decision past by G and A at their meeting on 15 January.
	Part IV (Responsibility for Functions – Challenge and Improvement Committee Terms of Reference) Page 16	Membership note the following sub-note be ADDED to Committee’s Terms of Reference. “Members cannot serve on this Committee if they are serving Members of either of the Policy Committees”	As a result of the outcome of the review undertaken during 2018/19 and decision past by G and A at their meeting on 15 January. It is hoped this membership restriction will assist increasing the committee’s effectiveness.
	Part V Page 26(Rules of Procedure – Overview and Scrutiny Procedure Rules) – Rule 4	REMOVE the requirement for 8 Meetings to be held to allow greater flexibility.	As a result of the outcome of the review undertaken during 2018/19 and decision past by G and A at their meeting on 15 January.
	Part V Page 26(Rules of Procedure – Overview and Scrutiny Procedure Rules) – Rule 2.1	ADD to the Membership restrictions contained in Rule 2.1 the following “or serving Members of either of the Policy Committees” The Amended Rule will read “All Councillors with the exception of the Chairman, Leader of the Council, Deputy Leader of the Council,	As a result of the outcome of the review undertaken during 2018/19 and decision past by G and A at their meeting on 15 January. It is hoped this membership

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION			
Ref	Section /Page Ref	Amendment required	Reason for Amendment
		Leader of the Opposition and any serving Member of either policy committee may be members of the Overview and Scrutiny Committee.”	restriction will assist increasing the committee’s effectiveness.
	Part IV (Responsibility for Functions ED of Operations – page 34	REMOVE delegation 2 namely “2. To be the Company Director of WLDC Trading Ltd and its subsidiaries (Sure Staff Lincs Ltd and WLDC Staffing Services Ltd)”	This function will no longer be permitted to be sub-delegated (see amendment below) so is being removed from the Officer delegation list. Furthermore the ED of Operations will no longer hold the position
	Part IV (Responsibility for Functions – Corporate Policy and Resources Terms of Reference – Page 4	ADD the following words to current terms of reference no.11 “This includes changing the directorship if required and this function cannot be sub-delegated to an Officer” The amended term of reference will read “11. Approving the creation of any new legal entity and appointments of directors or other statutory officers onto the Board of the legal entity This includes changing the directorship if required and this function cannot be sub-delegated to an Officer”	This is to ensure these Directorship Appointments are made in a clear and transparent manner and it is clear the person is appointed as Director rather than delegated to act in the capacity of Director. This will ensure the requirements of Companies House are met without doubt.
	Part I Page 1 – Introduction	The vision be replaced with the up to date vision agreed by Council In November namely : - “West Lindsey is a great place to be where people, businesses and communities thrive and can reach their potential” The Council’s values to also feature on this page namely:- 1. To put the customer at the centre of everything we do 2. To act as one council	To reflect Council’s Decision To reflect Council’s decision and raise awareness of the values in this public facing document

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION			
Ref	Section /Page Ref	Amendment required	Reason for Amendment
		<p>3. To be business smart, to act on evidence and take advantage of opportunities, thinking creatively and getting things done</p> <p>4. To communicate effectively with all stakeholders</p> <p>5. To have integrity in everything we do</p>	
	<p>Part IV Responsibility for Functions – ED of Operations – Development Management - Page 39</p> <p>Page 37</p>	<p>To ADD the following NEW SUB to delegation 2”</p> <p>(i) All applications for “prior approval”, made under the provisions of the Town & Country Planning General Permitted Development Order 2015 (as amended)”</p> <p>And remove “all prior approval applications” from delegation 1 (which has the caveat the above powers cannot be used if.....”</p>	<p>Prior Approval applications are automatically granted planning permission by Government Order – subject to whether WLDC approval is required on certain, specified issues. However, these applications are time-limited. If the Council has not provided an answer within a specified time period (usually 28 or 56 days) – it is automatically approved.</p> <p>As it stands, this runs the risk that, Officers may not have the authority to determine such an application, but that it is automatically granted ahead of the next scheduled committee meeting.</p> <p>It is therefore proposed that such applications are always determined under delegated powers, to ensure the decision is taken by the Authority within the prescribed time period.</p>
	<p>Part IV Responsibility for Functions – ED of</p>	<p>To ADD the following words to current delegation 31 “and to hold all such Directors of such companies to account”.</p>	<p>To make it clear where accountability sits for company Directors once appointed by</p>

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION			
Ref	Section /Page Ref	Amendment required	Reason for Amendment
	Resources – (Chief Finance Officer) - Page 32	The amended delegation will therefore read “31 to be the Council’s Shareholder representative for the Group Holding Company and its individual subsidiaries and to hold all Directors of such companies to account ”.	CPR Committee (particularly as other amends proposed within this report will prevent the function of appointing Directors being a sub-delegated function)
	Part IV Responsibility for Functions – Terms of Reference- Governance and Audit	To AMEND the footnote from other Group Leaders to Leader of the Opposition . The amended footnote will read “The Leader of the Council, Leader of the Opposition , the Chairman of the Overview and Scrutiny and Chairman of the Standards Sub-Committee may be required to attend this committee but may not be appointed to it.”	The current restrictions alongside the new restrictions proposed to O and S Committee were considered too restrictive and could make seat allocations difficult.
	Part IV Responsibility for Functions – ED of Resources – (Chief Finance Officer) - Page 30	To ADD the following words to current delegation, including responsibility for dealing with fraud ” The amended delegation will therefore read “1 To exercise the proper administration of the Council’s financial affairs under Section 151 of the Local Government Act 72 and Section 114 of the Local Government Finance Act 1988 including responsibility for dealing with fraud ”	For transparency and following comments made at a previous G and A Committee.
	Part IV Responsibility for Functions – ED of Operations – (Public Protection) - Page 34/ 35	To ADD the Civil Contingencies Act 2004 to the list of legislation contained under delegation 4	To ensure all legislation which the team works with is reflected

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION			
Ref	Section /Page Ref	Amendment required	Reason for Amendment
	Part IV Responsibility for Functions – ED of Operations – (Building Protection) - Page 43	To ADD a new delegation 2 namely “To alter the charges for all aspects of building control.”	This delegation is currently contained in the constitution for a number of other “commercial services” such as commercial waste collection and disposal, trinity arts centre and markets. This would allow the service to be more responsive to the market.

2.6 As referenced in 2.3 above, the review also prompted comments relating to the way which in the Public Participation at Planning Committee is operated, the proposed amendments are detailed in the table below and the amended leaflet featuring track changes to easily identify the amendments is attached at Appendix 1 for approval. It should be noted the Planning Committee have been operating in accordance with these changes since around October 2018, and these amendments therefore formalise the way of working.

Change required	Reason for Change
<ul style="list-style-type: none"> Amendment to question “does public participation alter the existing arrangements for the publicity of planning applications?” Has been made clear that public participation at Planning Committee would not apply to decisions delegated to officers 	<ul style="list-style-type: none"> Previously it was not clear that the public participation being referred to was specifically that participation at Planning Committee. It was not referring to the Planning portal.
<ul style="list-style-type: none"> Amendment to question “if I wish to speak, how do I arrange it?” 	<ul style="list-style-type: none"> To give the Chairman more scope to allow those people to speak who have valid reasons for not being able to register on time.

<p>Flexibility added in to allow for the fact that on occasion, individuals wishing to speak might have good reasons why they could not register on time to speak.</p>	
<ul style="list-style-type: none"> • Amendment to question <p>“what is the order of speaking on each application?”</p> <p>A tightening up of which County Councillors can speak during public participation.</p>	<ul style="list-style-type: none"> • There was nothing previously included to say which County Councillors could potentially speak for up to 5 minutes. It should now be clear that only those County Councillors whose County Ward contains the application being discussed can register to speak under the ‘Ward and/or County Councillor’ category. <p>Other County Members can still register, but would be classed as ‘supporters’ or ‘objectors’.</p>
<ul style="list-style-type: none"> • Standing advice to WLDC Members on what to do following any speech during public participation at Planning Committee to be added into the guidance. 	<ul style="list-style-type: none"> • There has long been standing advice to WLDC Planning Committee Members, contained within the document ‘Guidance for Members and Officers dealing with Planning Application’, but it was not extended to all WLDC councillors. It is important that the public perception of influence is safeguarded against regardless of whether the speaker is a planning committee member (acting in ward councillor duty) or a general Member of WLDC, particularly when that Councillor is a senior Member of the Council. This amendment is a response to complaints which have been received.

2.7 As referred to in Section 1.4 above, on this occasion some amendments proposed throughout the review are not being proposed for progression.

2.8 The table below sets out amendments which have been proposed but which are not intended to be implemented, together with the rationale.

TABLE OF PROPOSED AMENDMENTS NOT TO BE INCLUDED	
Proposed Amendment	Rationale for Non Inclusion
That Councillors be prevented from abstaining in regulatory Committee decisions	The act of abstaining is legally recognised and therefore there is no legal basis on which this right can be removed. There are often legitimate reasons for abstaining for example arriving half way through a debate, or having left for a comfort break. It would be more of a risk for Councillors and the Council as a whole to be forced to vote for or against a proposal having not heard all the facts. Such circumstances could give rise to a Judicial Review being implemented.
That questions and motions be permitted at Annual Council	Having researched a number of other authorities' practices, there is a mixed approach to this matter. Annual Council is reserved for ceremonial and statutory matters here at West Lindsey and there is no proposal for this to change.
Planning Officers have suggested that, where an application is from a family member (to staff/member) and is for a householder application only, and where no objections have been received from any third parties, that these applications should be determined by officers under delegated powers.	The number effected by such is relatively small and it is felt that the need to maintain the upmost transparency in such applications outweighs the need to "free up the Committee time"

2.9 Members are asked to agree that these are not included and recommend them to Council for non-inclusion.

3 In Year Changes to Contract and Procurement Procedure Rules – to be noted by Council as part of this annual review.

3.1 The Governance and Audit Committee are delegated to make any changes to the Contract and Procurement Procedure Rules between Annual Councils. These must then be reported up to Full Council, for noting, as part of the annual review.

3.2 As stated in Section 1.7 above, an Audit of the Council's Procurement Procedures was undertaken in April 2018 which resulted in considerable amendments being made to the Contract and Financial Procedure Rules

in the last Constitution Review. A number of significant amendments were also made to reflect the Council's commercial agenda. Only one relatively minor amendment is being proposed as a result of this review namely: -

Section 9 - Above OJEU threshold procurement – Introductory Text, the following be inserted:

“For the higher value procurements, Procurement Lincolnshire recommend a strategy is written to determine the planned approach of cost-effectively purchasing the Council’s required supplies, taking into consideration several elements and factors such as the background, scope, outcomes, procurement route options, selected route, timeline for procurement, checklist, funding, budget, the projected risks and opportunities, among others.”

3.3 The Full set of Contract and Procurement Procedure Rules is attached at Appendix 2 for completeness, with the amendment highlighted for ease.

3.4 This document sits within Part V of the Constitution – Rules of Procedure.

3.5 Council are asked to note this amendment as part of the Annual Review.

4 Progress made with regards to those areas of work agreed for further development in the 2018/19 review.

4.1 As detailed at Section 1.5 of the report as part of the Annual Review last year Members agreed a list of associated work to be undertaken during the 2018/19 civic year.

4.2 This Section provides a brief update on the progress which has been made: -

4.3 Reviewing the Role and Effectiveness of the Challenge and Improvement (C and I) Committee.

4.3.1 As well as being included in the “associated planned work” section of the 2017/18 Constitution Review, the remit to review the role and effectiveness of the C and I Committee was a matter included in the Annual Governance Statement (AGS) 2017/18 and Action Plan.

4.3.2 The AGS put forward four actions to be undertaken as part of the Challenge and Improvement Review:

- Meet with Chair(s) to set the scope of the review which included ‘call-in’ process;
- Undertake review, assess findings and identify areas to address, using KPMG training material as a reference point;
- Report findings back and create and monitor project plan;

- Track delivery of the plan and assess level of improvements.
- 4.3.3 Furthermore in early 2018, external auditors delivering scrutiny training to Members asked the Challenge and Improvement committee to 'prove its worth', and deliver more value
- 4.3.4 As result of the information and views gathered through the review a report was submitted to the Governance and Audit Committee proposing three possible avenues to be pursued: -
1. *Make no changes to the Challenge and Improvement Committee;*
 2. *Make limited changes to the functions of the committee and review the terms of reference, and include a change in the criteria for membership;*
 3. *The removal of Challenge and Improvement Committee from West Lindsey's structure but retain a call-in function;*
- 4.3.5 The full report submitted can be viewed [here](#), together with the [minutes](#).
- 4.3.6 The Governance Audit Committee based on the report resolved to accept Option 2 detailed above.
- 4.3.7 The following issues were also singled out as being particularly favourable:
- Meeting dates should have the option of being more flexible;
 - The name change, to Overview and Scrutiny, would be something that was simple but effective;
 - A change in the criteria for membership, which could in turn lead to a smaller committee;
- 4.3.8 As a result of this work a number of minor amendments have been included in Section 2 of the report for approval, including a change of name and a restriction on Membership. No amendments have been made to the Committee's Terms of Reference at this stage, as no definitive direction in respect of this matter was offered by the Governance and Audit Committee.
- 4.3.9 In light of the issues raised during the debate the role and effectiveness of the C and I Committee will again be a focus for 2019/20. Further information is contained in Section 5 below.
- 4.4 **Reviewing the approach to Member Development and ensuring a robust induction programme and 4 year training plan is in place.**
- 4.4.1 A Member Development Group has been set up in order for interested Councillors to have an input with the development plan and Members of the Governance and Audit Committee have received reports on this matter, namely at their meetings on 19 June and 6 November 2018.

- 4.4.2 The full reports can be found here <https://democracy.west-lindsey.gov.uk/ieListMeetings.aspx?CId=155&Year=0>
- 4.4.3 As a result, a full and robust induction plan is now in place to cover not only the initial post-election sessions but also to support Members through the first few months of the Civic Year. Although some sessions will be particularly relevant for newly elected Members, there will be a number of sessions focusing on statutory subjects such as Licensing and Planning, which all Members will be expected to attend.
- 4.4.4 Within the Member Development Group it was agreed that alongside the induction programme, each Councillor will be allocated a named Democratic Services Officer to assist with the induction period who will also be first point of contact for most queries and it is anticipated this will carry through the term of office. The longer term development plan, with future sessions identified over the coming four years, is also underway with input from the Member Development Group. Further details can be found in the report and associated appendices. <https://democracy.west-lindsey.gov.uk/documents/s10215/Member%20Development%20Draft%20Programme%20for%20Induction%202019.pdf> and <https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CId=155&MId=2000&Ver=4>
- 4.4.5 Member Development will continue to be a focus in the 2019/20 civic year. Further information is contained in Section 5 below.
- 4.5 **Members ICT – considering options for ICT provision including the possibility of providing West Lindsey owned and issued hardware**
- 4.5.1 Officers have worked with Members throughout 2018/2019 to further progress this matter.
- 4.5.2 Members were contacted back in late July 2018 through the Members' Bulletin about their availability so that they could provide information on what they would require from a new device.
- 4.5.3 The Members that volunteered their time then attended one of two workshops (held on 29 August 2018 and 6 September 2018) and aired their views on the specification for any new equipment.
- 4.5.4 The main requirements arising from these sessions are summarised below
- Efficient email capability
 - A standard device and software across the membership
 - The ability to read and save documents to a device
 - A light and portable device
 - Long battery life
 - Touchscreen welcome, in addition to a keyboard and mouse
 - Training and ongoing support (technical and operational)
 - Use of Modern.gov.

- 4.5.5 Following these workshops, 5 Members volunteered to form a pilot group to test a potential device, which would meet all of the above requirements. These Members included someone from each political group on the Council, and contained a range of IT abilities.
- 4.5.6 This work culminated in a report being submitted to the Corporate Policy and Resources Committee on 14 February 2019 where the Committee resolved to accept the rollout of West Lindsey District Council owned devices, and in doing so, the previous policies related to this matter were revoked.
- 4.5.7 The full report submitted can be viewed [here](#), together with the [minutes](#).
- 4.5.8 As a result, following the Elections in May 2019, the newly elected cohort will be issued with a Council owned device.
- 4.5.9 This revised approach will further safeguard the Council and ensure it meets its requirements under the new GDPR arrangements.
- 4.5.10 Members ICT will continue to be a focus in the 2019/20 civic year. Further information is contained in Section 5 below.

5 Associated Work Planned to be undertaken during the 19/20 year

- 5.1 Whilst undertaking the annual review of the Constitution a number of other associated actions for further work and development have been identified, namely: -
- **The role of the C and I Committee (to be known as the Overview and Scrutiny Committee if this report is agreed) and further training** – An initial review was undertaken during 2018/19 as detailed above. Throughout 2019/20 the Committee's role and effectiveness will continue to be monitored, and the impact of the amendments made through this review will be assessed. The Effectiveness of Committee surveys submitted by Members of the C and I Committee expressed mixed views as to whether the Committee was functioning well and understood its remit. A thorough review of the Committee's Operating Methodology will also be undertaken, to streamline its content and ensure it reflects the way the Committee actually operates. This will be presented to the Overview and Scrutiny Committee at its June/July meeting for immediate adoption. Training for the Overview and Scrutiny Committee will also be a focus of 2019/20. Any recommendations arising from the monitoring of the Committee's effectiveness will be made as part of the Annual Review for 2019/20, and would become effective from Annual Council May 2020.
 - **Review of the Policy Committees** – The role and effectiveness of the Policy Committees will be reviewed to ensure their functions and term of reference are as clear as possible, with the aim being to reduce the number of reports which need to be referred between the two.

- **Member Development** – Whilst a robust induction plan has been agreed, as referred to in the reports linked to Section 4.4.2 there is still desire to make greater use of on-line training and explore other options for alternative methods of delivery (this could also include increased use of the library on modern.gov). After the induction programme is completed post-elections, the details of the four year plan will be ratified with any additional needs identified from induction incorporated into the longer term plan. There will also be a greater focus on engagement with development sessions with the Member Development Group continuing in an advisory role in order to maximise attendance at advertised sessions. The induction process for Members who become a Councillor through by-elections will be formalised within the Democratic Services Team in order to have a structure in place if needed in the future. Member Development will continue to be a focus for the team as lessons are learnt as to what is successful and meaningful for Members, as well as continuing to adapt to the changing needs of both the Council and Elected Members. Member attendance rates at training events will be internally monitored.

- **Members ICT** - The rollout of Council owned devices will become effective from May 2019 following the Elections. Both the Democratic Services Team and the ICT Team are committed to ensure Members are fully trained and feel confident in using their devices for all Council business.
 - Device masterclasses will be available to Members following the election in May as part of the induction and beyond
 - Written guidance provided as part of the pilot panel will be made available to all Councillors on collection of their device
 - Support for Members will be provided by the ICT Team (including remote support, as the devices can be updated and configured remotely). This support will be provided either in person at the Council offices or via a telephone call, as required to best resolve any issue. The ICT Team will record all support requests so that additional resources can be made available to fix any issue that has not been resolved first time.
 - Each Councillor will be assigned a member of the Democratic Services team as a 'buddy' so that questions of a more basic nature, and in particular queries on Modern.gov can be dealt with before any escalation to ICT.

- **Petition Scheme** – The Petition Scheme has not been reviewed since its introduction in 2009/2010. A review of similar authorities' petitions schemes will be undertaken to ensure the Council's Scheme is still fit for purpose. Any recommendations arising from the review will be made as part of the Annual Review for 19/20, and would become effective from Annual Council May 2020.

- **Review of Governance of Accountable Bodies** - A review will be undertaken to ensure all procedures and governance arrangements, including financial regulations and contract procedure rules are

appropriate for these types of roles. Any recommendations arising from the review will be made as part of the Annual Review for 19/20, and would become effective from Annual Council May 2020.

6 Annual Report from the Monitoring Officer which sets out the governance arrangements in place to manage Commercial and Economic Growth

6.1 This part of the report deals with changes to Governance of the Council which have taken place during the year, with a focus on commercial activity.

6.2 In June 2018 a report was received by the Governance and Audit Committee regarding the Governance of Commercial Activity. The report is attached as Appendix 3 for your information. The report gave details of the Governance around Local Authority Owned Companies, Development Agreements and the Commercial Property Portfolio.

6.3 The sections below provide updated positions in respect of each together with information on how the Council has responded to the GDPR Regulations.

6.4 West Lindsey Owned Companies

6.4.1 The current companies in West Lindsey ownership are detailed below. These are managed using nominated representatives acting as Directors and carrying out the shareholder function. The shareholder function for all companies currently sits with The Section 151 Officer and Executive Director of Resources, Ian Knowles, who in practice carries out this role through reports to the Corporate Policy and Resources Committee.

Company	Reg. No.	Date incorporated	WLDC Staff/Roles		Shareholding
WLDC Trading Ltd	10547086	Jan 2017	KW – Director		Sole Shareholder
WLDC Staffing Services Ltd	10276205	Jul 2016	IK – Shareholder Representative		
SureStaff (Lincs) Ltd	06476932	Jan 2018	TB - Secretary		
Market Street Renewal Ltd	10298200	Jul 2016	EFM	Director	50/50 with DPL
			AM	Director	
			IK	Shareholder Representative	

Key: -

IK – Ian Knowles - Executive Director of Resources

EFM – Eve Fawcett-Moralee – Executive Director of Economic and Commercial Growth

KW – Karen Whitfield – Communities and Commercial Programme Manager

AM – Andrew Morriss – Independent Lay Member of the Governance and Audit Committee
TB – Tracey Bircumshaw – Financial Services Manager
DPL – Dransfield Property Limited

6.4.2 During 2018/19 The Sure Staff companies and Market Street Renewal Ltd have presented business plans to Corporate Policy and Resources Committee. These are now planned in as a matter of course for future years to allow for the forward plan to be accurate and to ensure prompt reporting.

6.4.3 A change which has been made is that Karen Whitfield, the Communities and Commercial Manager has been appointed to the role of Director of Sure Staff by way of sub-delegation by the Executive Director of Operations in accordance with the Council's Constitution. Full Council ratified this decision at its meeting on 8 April 2019. It is proposed that the Constitution is amended to provide that sub-delegations of this function in the future are not permitted.

6.4.4 Such proposed changes and the rationale for such have been included in Section 2 of the report

6.4.5 In conclusion there have been no issues raised around the governance of the West Lindsey owned companies and they have not been subject to any legal challenge during the year.

6.5 Development Agreements in General

6.5.1 A development agreement is a term which is used to cover a variety of agreements amongst developers, landowners, purchasers, tenants and funders. Each agreement will, of course, require to be tailored to the parties and the circumstances of the particular development, but they tend to have a number of elements in common.

6.5.2 Many include some or all of the following obligations on the developer:

- to carry out the particular development in line with agreed plans and specifications;
- to procure the provision of collateral warranties by the contractor and consultants to the purchaser/tenants and funder;
- provisions which are designed to ensure the quality of the development;
- letting obligations, which set out the minimum criteria for any prospective leases which the developer seeks to secure, perhaps with an agreed form of lease attached; and
- A timetable for the development, including a longstop date for completing it.

6.6 West Lindsey Development Partnership

- 6.6.1 During 2018 West Lindsey District Council entered into a Development Partnership with Muse Developments.
- 6.6.2 The Development Partner was procured through a process known as “Competitive Dialogue”. This is a staged process which in this case has taken almost two years. The Development Agreement was negotiated during the dialogue stage. The agreement clarifies the roles responsibilities and obligations placed on both parties throughout the agreed duration of the agreement.
- 6.6.3 West Lindsey procured specialist legal advice which was used throughout the procurement process and in the drafting of the agreement.
- 6.6.4 Members were involved at each stage of the procurement and at a concurrent meeting of the Prosperous Communities Committees and the Corporate Policy and Resources Committee.
- 6.6.5 Since the agreement was signed Members of the Corporate Policy and Resources Committee and Prosperous Communities Committee have been kept up to date with progress including a report to both Committees on 25th February 2019 at which Members endorsed the current approach.

6.7 Commercial Property Portfolio.

- 6.7.1 At the Corporate Policy and Resources Committee on 13th April 2017 Members agreed a criteria for investment in commercial properties.
- 6.7.2 The criteria included lot size, location, asset quality, tenant lease term, tenant covenant, occupation and tenure. In addition the committee agreed to delegate the application of the criteria to the Executive Director of Resources following consultation with the Chairman of Corporate Policy and Resources Committee.
- 6.7.3 The criteria was revised at the meeting of the Corporate Policy and Resources on 10th May 2018 to increase the purchase price range to £10 million. This was to enable the portfolio to be balanced and to take advantage of a gap in the market for lots between £5 million and £10 million.
- 6.7.4 The following tables gives details of the investment portfolio as at 31st March 2019

Property	Acquisition Price	Total Capital Costs
Bradford Road, Keighley BD21 4BB Status: Acquired	£2,350,000	£2,490,354
43 Penistone Road Sheffield Status: Acquired	£2,550,000	£2,699,466
Unit 7 Drake House Sheffield Status: Acquired	£3,000,000	£3,174,913
5 Sandars Road, Heapham Road Gainsborough Status: Acquired	£6,105,000	£6,470,070
Heaton Street Gainsborough Status: Acquired	£1,100,000	£1,149,644
Total	£15,105,000	£15,984,447
Portfolio Gross Yield		7.27%

6.7.5 All the decisions to purchase these properties were carried out in accordance with the agreed criteria and the decisions have been appropriately documented.

6.7.6 Members have been regularly updated on these properties in the budget monitoring reports which are provided on a quarterly basis to the Corporate Policy and Resources Committee.

6.8 General Data Protection Regulations GDPR

6.8.1 GDPR came into effect on 25th May 2018. These regulations provided an update on the existing Data Protection Act and gave additional duties to data controllers.

6.8.2 West Lindsey reviewed its systems and processes in line with the new requirements and introduced a number of privacy statements as well as clear reporting lines for the reporting of data breaches. Extensive training was carried out for officers, Members and parish councillors.

6.8.3 Monitoring arrangements have been put in place to review the impact on Freedom of Information requests and Subject Access Requests. This

will enable officers to adapt to changes of behaviour brought about by the regulations.

- 6.8.4 GDPR also requires West Lindsey District Council to appoint a Data Protection Officer. As such an officer has been appointed to this role for the purposes of the regulations.

7 Data Analysis Of The Number, Nature And Outcome Of Complaints Received Under The Code Of Conduct.

7.1 The Standards Sub-Committee at its meeting on 24 September 2018 received a report which presented a data analysis of the number, nature and outcome of complaints received under the Code of Conduct regime for the civic years 2016/17, 2017/2018 and 2018/19 to-date (which was July 2018).

7.2 The full report is attached at Appendix 4 and includes information on the current approach adopted.

7.3 The sections below set out an updated position in respect of complaints data for the 2018/19 civic year up to March 2019.

7.4 During 2018/19 there have now been a total of 14 complaints.

7.4.1 Six relate to Parish Councillors and 8 relate to District Councillors.

7.4.2 The nature of these complaints is summarised below:

- | | | |
|-------------------|---|--|
| • Integrity | 2 | (1 Parish Council and 1 District Council) |
| • Respect | 9 | (7 Parish Council and 2 District Council) |
| • Bullying | 2 | (Parish Council) |
| • Use of Position | 1 | (Parish Council) |

7.4.3 The Outcome of these complaints is summarised as follows: -

- | | |
|--------------------|----|
| • Potential Breach | 2 |
| • Rejected | 2 |
| • Non Breach | 10 |

8 Recent Appointments made by the Monitoring Officer

8.1 Remuneration Panel

The period of appointment of three members of the Remuneration Panel expires in May 2019. Following a recruitment exercise, all three positions have been re-filled. One is a returning member while two are new recruits to this Panel.

8.2 Appointment of Independent Persons

This role assists the Monitoring Officer in determining whether the Members' Code of Conduct has been breached when investigating

complaints against Councillors. We currently have two Independent Persons whose terms of office expire in May 2019. Following a recruitment exercise, both have been re-appointed.

- 8.3 Independent Member of Governance & Audit Committee
We have three Independent Members who sit on this Committee. The term of office for one Member expires in May 2019. Following a recruitment exercise this Member has been re-appointed.
- 8.4 All appointments are subject to ratification at Annual Council in May 2019 and will be subject to separate reports.

List of Appendices

- Appendix 1 - Public Participation at Planning Committee Meetings – for adoption
- Appendix 2 - Contract and Procurement Procedure Rules – for adoption
- Appendix 3 - G and A Report June 2018 – Commercial Activity
- Appendix 4 -Standards Sub-Committee Report – 24 September 2018
- Appendix 5 – Revised Management Structure