



**Governance and Audit  
Committee**

**16 June 2020**

**Subject: Annual Constitution Review 19/20 and Monitoring Officer's  
Annual Report**

Report by:

Monitoring Officer

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Purpose / Summary:

The purpose of the report is for the Governance and Audit Committee to **RECOMMEND** to Council the proposed amendments to the Constitution.

For the second year running, the report also includes an Annual Report from the Monitoring Officer. The report aims to provide an holistic view of all governance associated matters.

The Governance and Audit Committee are also asked to **APPROVE** the amendment(s) made to the Financial and Contract Procedure Rules, which will subsequently be noted by Council as part of the Annual Review.

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**RECOMMENDATION(S):**

**The Governance and Audit Committee are asked to APPROVE: -**

- (1) Subject to (i) below, the amendment(s) made to the Contract and Procurement Procedure Rules and Financial Procedure Rules detailed at Section 3 of the report (the full set of Procedure rules are attached at Appendix 3 and 4 for completeness).**
  - (i) delegated authority be granted to the Head of Paid Service, in consultation with the Chairman of the Governance and Audit Committee, to make any necessary housekeeping amendments to both sets of procedure rules, arising from the on-going re-structure, and the final versions be noted by Council as part of the Annual Review in due**
- (2) that delegated authority be granted to the Head of Paid, in consultation with the Chairman of the Governance and Audit Committee, to confirm the final version of the Officer scheme of delegation, in light of the on-going re-structure, and the final version be included within the report, for approval at Annual Council**
- (3) 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 7 of the report**

**The Governance and Audit Committee are asked to RECOMMEND to COUNCIL: -**

- (4) that the outcome of the annual review be noted.**
- (5) that amendments detailed throughout Section 2 of the report, including those detailed in Appendix 2 relating to the Planning Delegation scheme be adopted and implemented with immediate effect;**
- (6) that the proposed amendments, raised through the review process, but which are not being progressed, detailed at Section 2.8 be agreed for non-inclusion.**
- (7) The appointments of Parish Councillors Elizabeth Hillman and Bruce Allison to the Standards Sub-Committee (Section 9)**

- (8) That the progress made with regards to:-**
- the areas of work agreed for further development in the 2019/20 review (Section 5);
  - the further planned work for 2020/21 (Section 6)
  - the statistical data provided within the report in respect of the number, nature and outcome of Code of Conduct Complaints (Section 8); and
  - the support offered to Parish Councils (Section 11) be noted
- (9) That the interim decision making process(es) that have been in place during the COVID -19 Pandemic be acknowledged.**

## IMPLICATIONS

### **Legal:**

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

### **Financial : FIN/10/21/TJB**

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.

### **Data Protection Implications :**

None arising from this report.

### **Climate Related Risks and Opportunities:**

None arising from this report.

### **Section 17 Crime and Disorder Considerations:**

None arising from this report.

### **Health Implications:**

None arising from this report.

### **Title and Location of any Background Papers used in the preparation of this report :**

Annual Constitution Review 2018/19  
Effectiveness of Committees' Surveys

**Risk Assessment :**

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

**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**

**x**

**Key Decision:**

*A matter which affects two or more wards, or has significant financial implications*

**Yes**

**x**

**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 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 comprehensive reviews of the Constitution were undertaken in 2011, 2014 and 2017, and a large number of amendments were 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.
- The Constitution has really been tested during the COVID-19 Pandemic, particularly in the early days and as Monitoring Officer, I consider it has performed well, already including many of the delegations an organisation would need to manage business on a day to day basis in an emergency, another reason to support minimal changes being made at this time.
- 1.4 On this occasion some amendments proposed throughout the review are not being proposed for progression; these are detailed at **Section 2.9** of the report together with the rationale.
- 1.5 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 Constitution Review of 2018. A number of significant amendments were also made to reflect the Council's commercial agenda. There are relatively minor amendments being proposed as a result of this year's review, the most significant being a delegation to the Chief Finance Officer to approve the submission of grant bids of up to £50k where there is no requirement for additional Council resources. Other changes are mainly of house-keeping nature to reflect the outcome of the re-structure, with staff and stakeholders alike considering them to be fit for purpose, clear and easy to understand/use. Section 3 provides further details.
- 1.6 At the time of writing this report, there is an ongoing re-structure of the Senior Management. Section 4 of the report sets out how it is proposed

changes arising from this re-structure along with their impact on the Constitution will be managed.

- 1.7 As part of the Annual Review last year Members agreed a list of associated work to be undertaken during the 2019/20 civic year namely:
  - The role of the Overview and Scrutiny (O and S) Committee and further Training
  - Review of the Policy Committees
  - Member Development
  - Members ICT
  - Petition Scheme
  - Review of Governance for Accountable Bodies
- 1.8 Section 5 of the report provides a brief update of the work which was undertaken and the arising outcomes. Reviewing the role of the O and S Committee and the Petition Scheme has resulted in some proposed amendments. These are contained in Section 2 of the report, alongside all other proposed amendments.
- 1.9 Section 6 details associated work planned to be undertaken during the 2020/21 civic year.
- 1.10 Section 7 of the report sets out the governance arrangements in place to manage Commercial and Economic Growth and Section 8 presents a data analysis of the number, nature and outcome of complaints received under the Code of Conduct.
- 1.11 Section 9 of the report asks Council to confirm the appointment of two new Parish Council representatives on the Standards Sub-Committee.
- 1.12 Section 11 details support the Monitoring Officer has provided to a number of Parish Councils to ensure they could continue functioning and Section 12 onwards details temporary governance arrangements which have been place during the COVID-19 Pandemic, an unprecedented time for Local Authorities.
- 1.13 Sections 7 – 12 make up the Monitoring Officer's Annual Report and aim to provide an holistic overview of all governance associated matters.

## **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” Councils’ Constitutions;
- f) Holding workshops to focus on particular matters; and
- g) responding to matters raised through motions and questions to Council.

2.2 This has resulted in several, mainly minor amendments having been made throughout the document, primarily to Parts 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 report and the amended leaflet is attached as Appendix A to the report for approval – Section 2.6 provides further detail and rationale.

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, and following sections, set out the main proposed amendments for consideration along with the rationale for each.

Note Any page references / job titles within the scheme of delegation, refer to the person who previously held the delegation, pending the outcome of the re-structure – see Section 4 of the report details why this is the case.



<b>TABLE OF PROPOSED AMENDMENTS FOR INCLUSION</b>			
<b>Ref</b>	<b>Section /Page Ref*</b>	<b>Amendment required</b>	<b>Reason for Amendment</b>
	Part IV (Responsibility for Functions Corporate Delegations- Authorisations) – page 55	<b>NEW</b> 11.6 be <b>ADDED</b> – Signing off of contracts - Notes in column to state in compliance with the FPR’s	Clarity and defined governance.  no specific details on who could sign contracts was previously included in the FPR rules or the corporate delegation scheme.
	Part IV (Responsibility for Functions ED of Resources) – (Chief Finance Officer) page 32	<b>REMOVE</b> function 38 relating to SIRO and <b>TRANSFER</b> to Monitoring Officer responsibilities on page 35	The Monitoring Officer has taken on this role and this is a permanent change.
	Part IV (Responsibility for Functions Corporate Delegations- Authorisations) – page 58	<b>AMEND</b> line 16.4 by <b>REPLACING</b> “Data Protection Act 1998” with “General Data Protection Regulation (GDPR) and Data Protection Act 2018”	‘Reflects most up to date legislation
*	Part IV (Terms of Reference O and S Committee ) – page 17	<b>REMOVE</b> the footnote relating to membership restrictions	Arising from reviewing the committee’s working’s during 19/20 – Section 5 provides full details
*	Part IV (Terms of Reference O and S Committee ) – page 17	<b>AMEND</b> current function No.9 by <b>ADDING</b> the words “and acting as the ‘horizon scanning’ Committee for the Council, bringing matters which will have effect to the attention of the relevant Policy Committee at the earliest opportunity so they considered as part of Policy Development.	To support the O and S Committee to fully fulfil its role and to increase the emphasis on engagement with 3 <sup>rd</sup> parties.
*	Part IV (Terms of Reference O and S Committee ) – page 17	<b>REMOVE</b> current function No. 8 relating to service plans and budget plans.	To support the O and S Committee to fully fulfil its role and to increase the emphasis on engagement with 3 <sup>rd</sup> parties.

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION			
Ref	Section /Page Ref*	Amendment required	Reason for Amendment
*	Part IV (Terms of Reference O and S Committee ) – page 17	<b>ADD</b> the words “limited to twice per year” to current function No. 6 which relates to pre-scrutiny.	To support the O and S Committee to fully fulfil its role and to increase the emphasis on engagement with 3 <sup>rd</sup> parties.  Methodology to be amended to align
*	Part IV (Terms of Reference O and S Committee ) – page 17	<b>REMOVE</b> the words “relate to the Forward Plan” and <b>ADD</b> the words “limited to one per year” to current function No.2 in relation to reviews selected by committee.	To support the O and S Committee to fully fulfil its role and to increase the emphasis on engagement with 3 <sup>rd</sup> parties.  Also allows the Policy Committee’s to determine to a greater degree a work programme that supports Corporate Objectives.  Methodology to be amended to align
	Appendices – Appendix 15 Petition Scheme	<b>AMEND</b> in line with Appendix 5.	Clarity. The thresholds have not been amended but are now in a much clearer format to understand.
	Part IV (Responsibility for Functions ED of Operations – Planning and Housing Enforcement) – page 41	<b>NEW</b> No. 6 and 7  To be responsible for all safeguarding matters  To be responsible for all Corporate responsibilities under the Prevent Scheme	Clarity.  These are functions undertaken by the authority but not currently referenced.

**TABLE OF PROPOSED AMENDMENTS FOR INCLUSION**

Ref	Section /Page Ref*	Amendment required	Reason for Amendment
	Part IV (Council Procedure Rules) Page 12	<b>ADD</b> new 15.3.1 as follows “On occasion it may be necessary for discussions to be recorded in the absence of a democratic services officer. However no decisions or votes will be taken in the absence of such an officer”	At request of Chair of Governance and Audit. Providing clarity around what should and should not be undertaken in the absence of democratic support.
	Part IV (Officer Employment Procedure Rules) Page 140 – 142)	A footnote be added to set of rules as above.	This is primarily the Committee, which will find itself in this position, therefore by repeating the requirement within the procedure rules it uses, this will embed the requirement.
	Part V (Rules of Procedure – Council Procedure Rules) – page 14	The following paragraph be <b>ADDED</b> to para 23.1. “Attendance at such training will be monitored and the Administration will use the attendance stats in determine who it recommends for such roles.”	Improve the Chairing skill of members and strengthen the constitutional requirements around Chairmen/Chairing – this change has been requested by elected members
	Part IV (Responsibility for Functions – G and A Cttee Terms of Ref) Page 7	The following function be <b>ADDED</b> to the Committee’s Terms of Reference “to review the number of working groups in existence, their role and terms of reference at least once per election cycle, making recommendations to Full Council prior to their Annual Meeting.”	Improved Governance – Concerns have been raised through this review that working groups may not always be operating within their agreed remits or fulfilling the role originally intended. This would ensure working groups remain fit for purpose.
	Part IV (Responsibility for Functions – ED Operations) – page 39	The following note be <b>ADDED</b> to 2 (f). “Planning Appeals which involve a member overturn will be dealt with in accordance with the Member Overturn Policy agreed on 26 June 2013/14”	Clarity and defined governance

<b>TABLE OF PROPOSED AMENDMENTS FOR INCLUSION</b>			
<b>Ref</b>	<b>Section /Page Ref*</b>	<b>Amendment required</b>	<b>Reason for Amendment</b>
	Part V (Rules of Procedure – Council Procedure Rules) - Page 1	The following footnote be <b>ADDED</b> to function 1.3 (f) “ A Committee may have no more than two-vice Chairmen”	Requested through the review by Chair of G and A.
	Part IV (Corporate Delegations) Page 54	10.5 – determining purchase limits for officers - Team Manager Column to be ticked	Team Managers are contacted by finance to determine these levels – so change reflects current practice.
	Part II – Article 2 (Elected Members) Page 5	The following sentence be <b>ADDED</b> to paragraph 2.7 – Conduct. “The Council has also adopted the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism, as a clear message that anti-Semitic behaviour will not be tolerated”.	Commitment made at Full Council to include reference to Anti-Semitism and in response to letter From the Minister for HC&LG
	Part III – Codes and Protocols – content page	The following footnote be <b>ADDED</b> “The Council has also adopted the International Holocaust Remembrance Alliance (IHRA) definition of antisemitism, as a clear message that anti-Semitic behaviour will not be tolerated”.	Commitment made at Full Council to include reference to Anti-Semitism and in response to letter From the Minister for HC&LG
	Part III – Codes and Protocols – Page 27 Onwards – Local Code of Corporate Governance	The Local Code of Corporate Governance be <b>REMOVED</b> from the Constitution	This document is often reviewed on a different timescale to the constitution and is therefore often out of date. A simple link will be included within Section 3 the Constitution advising the Council has a Local Code of Corporate Governance, this ensures the document remains up to date and its inclusion in full is consider essential for the constitution document.
	Part IV (Responsibility for Functions – Monitoring Officer) Page 33	<b>ADD NEW FUNCTION 3 (A)</b> “to keep polling districts and polling places under review and amend any such arrangements (following	Housekeeping, power granted by Council during 19/20.

**TABLE OF PROPOSED AMENDMENTS FOR INCLUSION**

Ref	Section /Page Ref*	Amendment required	Reason for Amendment
		consultation with Local Ward Member(s) where there is an operational need, prior to the next compulsory District review”	
	Part 6 ( Members Allowance Scheme) Page 11	<b>ADD</b> in Humber Strategy to list of approved duties and remove the LEP	Housekeeping to reflect up to date list of outside body appointments
	Part 6 ( Members Allowance Scheme) Page 10	<b>REMOVE</b> paragraphs 16 and 17 as they are a repeat of paragraphs 13 and 14	House keeping
	Part IV (Responsibility for Functions – Rem Panel Terms of Reference	The first bullet point note <b>be AMENDED</b> to read as follows “ the Panel shall comprise no less than four members and no more than 6”	To reflect current practice. Legal opinion is that four will suffice and 5/6 can be difficult to recruit to. Currently running IRP at 4 Members This amendment allows flexibility.
	Part VII (Management Structure)	Whole document to be replaced, once re-structure finalised	To reflect current management structure
	Part IV (Responsibility for Functions ED Economic and Commercial Growth) – Page 45/46	Functions 9 – 14 inclusive be <b>DELETED</b>	On reflection these are considered more JD Objectives, as opposed to functions which need delegated power – error in drafting previously.
	Part IV (Responsibility for Functions ED Resources) – Page 32	<b>AMEND</b> current point 32 raising the maximum short term cash flow loans to subsidiary companies to a maximum of £50k per company, as opposed to £25k.	Housekeeping as this increase has been approved by committee already, during consideration of a CPR report

<b>TABLE OF PROPOSED AMENDMENTS FOR INCLUSION</b>			
<b>Ref</b>	<b>Section /Page Ref*</b>	<b>Amendment required</b>	<b>Reason for Amendment</b>
	Part IV (Responsibility for Functions ED Resources) – Page 32	<b>NEW no. 37</b> (re-number after) To approve the submission of grant bids of up to £50k where there is no requirement for additional Council resources.	This amendment is proposed to the financial regs and therefore inclusion here also ensures transparency

## 2.6 Responding to Motions and Questions and Consultation

- 2.6.1 As referenced at 2.1 changes made during the Annual Review are driven by a number of factors including responding to questions and motions. This year has seen some changes proposed directly as a result of this. The following sections deal with these.
- 2.6.2 As inferred at 2.3, the review also prompted comments relating to the way which in the Public Participation at Planning Committee is operated. This matter was also the subject of a formal question posed at Council in [November 2019](#).
- 2.6.3 The review in 2019 introduced the requirement for any WLDC Councillor who had addressed the Committee in a Ward Member capacity to withdraw from the Council Chamber after their verbal submission. This additional requirement was originally included in response to complaints, which had been received, and was to protect against the perception of influence.
- 2.6.4 However, since its introduction it has not proved popular amongst the elected member core, often being a cause of contention. Officers have re-assessed the risk to decision making and reviewed other authorities' participation schemes and are happy its removal is justified.
- 2.6.5 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. In effect, these amendments return the practice to its previous form, allowing Ward Members to remain within the room having addressed Committee. **The requirement for Ward Members to register to speak in advance still remains – and will become even more essential if virtual meetings remain in place for a period of time.**

Change required	Reason for Change
<b>Removal of the wording</b> standing advice to all WLDC Members would be to leave the Chamber for the remainder of the debate on the item they have spoken on.	The risk to decision making is low and this has been a cause of contention unnecessarily.

- 2.6.6 In recent times, the elected member core, have expressed dissatisfaction at the way the public participation scheme is applied to Councillors, therefore the scheme as a whole, including the timings applied will be revisited during 20/21. This matter is therefore referenced in Section 6 (Associated Work Planned to be undertaken during the 20/21 year)
- 2.6.7 There was also a motion to Council in [November 2019](#) in which a Councillor expressed concern regarding this matter and the delegation scheme in general. This motion was supported and as a result a further commitment was made to review the delegations.

- 2.6.8 Planning Delegations is a matter which generally is raised through any consultation held with Parish Councils, the most recent such consultation being that on the Parish Charter.
- 2.6.9 The Authority had planned a series of training events throughout 2020, aimed at Parish Council's and their understanding of the planning process, and it had been hoped that these would help develop a common understanding of the process and help reduce any confusion and ultimately complaints. Due to the COVID 19 Pandemic this has not been feasible and the work schedule will re-commence as soon as is feasibly possible.

## 2.7 Amendments to Scheme of Delegation to Support Parishes

- 2.7.1 Having met with the Senior Planning Officers in February to discuss this matter, the amendments shown in red in Appendix 2 are proposed for inclusion.
- 2.7.2 It should be noted that objections from a Parish Council itself could already refer applications to the committee, as shown underlined in Paragraph 1 (a) on Appendix 2.
- 2.7.3 However, in addition to the above mentioned provision, and concerns previously raised it is considered to open it up further to Parish Councils to expressly request a "call-in" where they are concerned there is a conflict with their neighbourhood plan. The wording at (new) 1(b) in red on Appendix 2 aims to facilitate this additional provision **and is recommended for adoption**
- 2.7.4 This in effect now gives Parish Councils the same access to call-ins as Ward Members.
- 2.7.5 It is acknowledged that Councillors have raised concerns that there is a perception, "community views" are not heard or given enough weight.
- 2.7.6 Delegations can be a matter of interpretation, and again having met with the senior planning Officer, and spoken with the Assistant Director of Planning and Regeneration, as Monitoring Officer I am confident that in recent times these delegations are being interpreted in a much more customer friendly manner.
- 2.7.7 The statistics below show the number of referrals made as a result of direct calls-in / referrals, when compared to last year, as an improving picture.
- 2.7.8. From April 2019 to March 2020, the Planning Committee considered 33 applications across 10 meetings. Of these 18 had Parish Council objections / representations against them.



2.7.9 On average, there were 1.8 applications per meeting with Parish Council representations (see table below)

(Please note that some applications were considered at more than one meeting i.e. Application No.140077 was considered at both the January and February meetings.)

<b>April 2019-March 2020</b>			
<b>Committee Date</b>	<b>Applications with Parish Council objections</b>	<b>Total No. of apps</b>	<b>No, of apps with PC objections</b>
4 <sup>th</sup> March 2020	Meeting cancelled	n/a	n/a
5 <sup>th</sup> February 2020	140077 (Glentworth); 140331 (Sturton by Stow).	5	2
8 <sup>th</sup> January 2020	140180 (Sudbrooke); 140077 (Glentworth); 140003 (Nettleham).	5	3
11 <sup>th</sup> December 2019	140180 (Sudbrooke), 139839 (Osgodby); 140128 (Osgodby); 140042 (Nettleham).	4	4
13 <sup>th</sup> November 2019	n/a	2	0
16 <sup>th</sup> October 2019	139520 (Scotton).	2	1
18 <sup>th</sup> September 2019	Meeting cancelled	n/a	n/a
21 <sup>st</sup> August 2019	139558 (N Kelsey support – officer recommendation to refuse)	1	1
24 <sup>th</sup> July 2019	Meeting cancelled	n/a	n/a
26 <sup>th</sup> June 2019	139024 (Burton).	3	1
29 <sup>th</sup> May 2019	138812 (Brattleby); 137950 (Bardney).	4	2
1 <sup>st</sup> May 2019	136577 (Gainsborough).	2	1
3 <sup>rd</sup> April 2019	138971 (Blyton); 136577 (Gainsborough); 138477 (Grasby),	5	3
<b>TOTAL</b>		<b>33</b>	<b>18</b>

2.7.10 From April 2018 to March 2019, the Planning Committee considered 37 applications across 12 meetings. Of these 18 had Parish Council objections / representations against them.

2.7.11 On average, there were 1.5 applications per meeting with Parish Council representations. (Please see table below)

(Please note that some applications were considered at more than one meeting i.e. Application No.137326 was considered at both the April and May meetings.)

<b>April 2018- March 2019</b>			
<b>Committee Date</b>	<b>Applications with Parish Council objections</b>	<b>Total No. of apps</b>	<b>No, of apps with PC objections</b>
6 <sup>th</sup> March 2019	138660 (Waddingham).	5	1
6 <sup>th</sup> February 2019	n/a	1	0
9 <sup>th</sup> January 2019	138494 (Nettleham).	4	1
12 <sup>th</sup> December 2018	137789 (Blyton); 138145 (Snitterby – object, recommendation to refuse).	4	2
14 <sup>th</sup> November 2018	136826 (Cherry Willingham & Fiskerton)	3	1
17 <sup>th</sup> October 2018	138180 (Fiskerton) (note: application withdrawn); 137950 (Bardney)	4	2
19 <sup>th</sup> September 2018	138157 (Cherry Willingham)	1	1
22 <sup>nd</sup> August 2018	Cancelled	n/a	n/a
25 <sup>th</sup> July 2018	137511 (Bigby)	2	1
27 <sup>th</sup> June 2018	137443 (Caenby); 136962 Lea Crematorium (Lea & Knaith)	2	2
30 <sup>th</sup> May 2018	137531 (Nettleham); 136604 (Caistor); 137532 (Saxilby)	4	3
2 <sup>nd</sup> May 2018	137326 (Burton); 135868 (North Kelsey); 137057 (Cherry Willingham)	4	3
4 <sup>th</sup> April 2018	137326 (Burton)	3	1
<b>TOTAL</b>		<b>37</b>	<b>18</b>

2.7.12 As an aside, across England 95%, of planning applications are dealt with under delegated powers. West Lindsey currently determines 96% of its applications in that way and therefore is considered to be in line with national performance, with no further amendments currently considered required.

2.7.13 It should also be noted that West Lindsey allows for a 28 day consultation period on Planning Applications, when the statutory requirement is only 21 days.

2.7.14 There is a commitment from the Planning Team that when an application is refused under delegated officer powers the decision notice will include full reasoning.

## 2.8 Amendments considered but not put forward for inclusion

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

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

<b>TABLE OF PROPOSED AMENDMENTS NOT TO BE INCLUDED</b>		
<b>Proposed Amendment</b>	<b>Source of Request</b>	<b>Rationale for Non Inclusion</b>
To introduce a mechanism whereby if a planning application is referred to the Planning Committee as a result of a Parish Council “call-in” in the event that the Parish Council do not attend the Planning Committee at which the application is being heard, the application should be removed from the agenda and dealt with in accordance with the officer recommendation.	Elected Member	Whilst this matter has been considered and arguably something could be included in the scheme of delegation to this effect. Administratively this would be difficult to implement. Also this does arguably give Parish Council’s a greater degree of say. There could be other speakers registered against an application and they could be left feeling their right to speak has been removed because of the actions of a Parish Council. <b>As an alternative it will be made clear through communications etc. that there is an expectance of attendance by the Parish Councils should they request a call-in.</b>
Adoption of a Parental Leave policy for Elected Members	Motion to Council on <a href="#">4 November</a>	This matter has been considered at briefings of the Governance and Audit Committee. This matter is already covered by legislation and the Council therefore already has the power to grant Councillors leave from their mandatory requirement to attend meetings etc. for any reason they so agree including the right to remuneration. <b>Therefore no separate policy for a specific leave reason is considered necessary</b>
Working Groups – being allowed to make replacement appointments	Elected Member	It was requested that there be a regulation within the Constitution that if there is repeated non-attendance at a working Group then that Working Group should be permitted to seek a

		new appointment. Working Groups are not decision making, nor do they establish their own membership. This matter could be dealt with by each Working Group's terms of reference. The amendment suggested above to the G and A Cttee Terms of Reference, should address this in the first instance.
HPS permitted to move Meetings	Officers	The HPS already has a number of delegations around cancelling meetings for a variety of meetings. It is not considered appropriate to extend these delegations. The LGA 1972 is very clear that the Council should have a schedule of agreed meetings. When meetings have needed to be moved the mechanisms currently in place have been deemed satisfactory and offer transparency (cttee have to approve the change)
A request to reduce the role of the editorial board and bring Comms issues more under the Leader's remit as 'Lead Spokesman'.	Leader	The role, remit and existence of the Editorial Board we be a matter for a separate report at Annual Council (working groups report). Having reviewed the Leader's Job Description – Appendix 3 of the Constitution – there are already multi references to the Leader being the lead spokesman, politically, corporately and with stakeholders. No further amendments considered necessary.

### **3 In Year Changes to Contract and Procurement Procedure Rules and Financial Procedure Rules – for Approval by Governance and Audit Committee**

- 3.1 The Governance and Audit Committee are delegated to make any changes to the Contract and Procurement Procedure (CPR) Rules and the Financial Procedure Rules (FPR) 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 1.5 above, an Audit of the Council's Procurement Procedures was undertaken in April 2018 which resulted in considerable amendments being made to the CPRs and FPRs in the 2018 Constitution Review. A number of significant amendments were also made that year to reflect the Council's commercial agenda.
- 3.3 Relatively few, mostly minor amendments are being proposed as a result of this review and these primarily relate to: -

- amendments required to “job titles / structure levels” to reflect the impact of the pending re-structure\*
  - clarity around the contract sign off levels, as the rules currently include no specific details on who can sign contracts.
  - measures to ensure robust planning in larger scale procurements
  - increases in financial limits for CPO Procurements
- 3.4 The Full set of amended Contract and Procurement Procedure Rules are attached at Appendix 3 along with brief rationale for each amendment being proposed.
- 3.5 Amendments have also been made to the FPRs to ensure these two important procedural documents work in harmony.
- 3.6 The main amendments are as follows: -
- Delegations previously awarded to the Executive Director of Resources in relation to financial controls have been reassigned to the Chief Finance Officer (S151)
  - Inclusion of a new delegation for the Chief Finance Officer who shall have delegated power to approve grant bids up to a value of **£50,000** where no additional Council resources are required. (also referenced in table at 2 above)
  - An amended paragraph relating to grant bids as follows: -
 

“Should a bid be successful it will need to be reported to Corporate Policy and Resources for budget approvals. For Grants in excess of this sum, Chief Officers must obtain Management Team (where no additional Council resources are required) and/or Corporate Policy & Resources Committee approval, where appropriate, for any bids for new monies detailing the service and financial implications **before** grant applications are made.”
- 3.7 For completeness, the Full set of amended Financial Procedure Rules are attached at Appendix 4, with the amendment(s) highlighted for ease.
- 3.8 These documents sit within Part V of the Constitution – Rules of Procedure.
- 3.9 Members of the **Governance and Audit Committee are asked to approve** the amendments, set out within each document, which will subsequently be reported to Annual Council for noting as part of the Annual Review.

**\*Note** As the on-going restructure is yet to be finalised, both sets of procedure rules have been prepared subject to the final outcome of this. Delegated authority is being sought to make any necessary housekeeping

amendments to both sets of procedure rules, arising from the on-going re-structure.

#### **4. Amendments required as a result of changes to the Management Structure.**

4.1 Members will be aware that in December 2019, the Chief Officer Employment Committee agreed to move away from the Executive Director Model back to a Chief Executive Model.

4.2 This has resulted in large number of “housekeeping” style amendments being made throughout the document to virtually every section, removing references to the Executive Directors and replacing them with the Chief Executive / Head of Paid Service as appropriate, similarly with the Executive Director of Resources and Chief Finance Officer. Due to the sheer number of these, and them not being “transformational” in nature these have not been listed within this report, but will be applied in the next published version of the Constitution.

4.3 One section of the Constitution which is fundamentally changed as a result of this change in management structure is the scheme of Officer Delegation. (Contained within Section 4 – Responsibility for Functions)

4.4 Delegations were previously split across the three Executive Director posts and the three Statutory Officer posts. In the intervening period, the majority of delegations have been set at the Chief Executive level underpinned with a comprehensive scheme of sub-delegation.

4.5 The Chief Executive is currently consulting on his proposed new structure comprising of one Director and five Assistant Directors. Consultation on this structure is not anticipated to be completed until the end of June. Due to the timing of this review, it is not possible to present the revised section to Governance and Audit Committee.

4.6 It is intended that all of the current delegations will be split appropriately amongst these six officers, the Chief Executive and the three Statutory Posts. Any new delegations will have been referenced in Section 2 of this report. The remaining part of this work is a simple “re-aligning of already agreed delegations under new job titles” ensuring the delegations given to that title reflect the functions they will be undertaking (their job descriptions)”. Therefore it is proposed that **delegated authority be granted to the Chief Executive, in consultation with the Chairman of the Governance Audit Committee, to confirm the final version of the scheme of delegation, for inclusion within the report, prior to it being presented to Annual Council for adoption.**

#### **5 Progress made with regards to those areas of work agreed for further development in the 2019/20 review.**

- 5.1 As detailed at Section 1.7 and 1.8 of the report as part of the Annual Review last year Members agreed a list of associated work to be undertaken during the 2019/20 civic year.
- 5.2 This Section provides a brief update on the progress which has been made: -
- 5.3 **The role of the O and S Committee and further Training.**
- 5.3.1 As a result of the initial review undertaken regarding the role of the scrutiny committee, a number of changes were agreed at Annual Council in May 2019 including restrictions on the committee membership.
- 5.3.2 The redesigned Operating Methodology was adopted at the meeting in June 2019 with the aim of clarifying the role of the committee and highlighting each route of scrutiny.
- 5.3.3 Members of the Committee were offered the opportunity to attend a scrutiny workshop, presented by the external auditors, with further focus on the role of scrutiny within the council. Attendance at the East Midlands Councils Scrutiny Conference was also facilitated for the Chairman, Vice Chairs and Lead Officer.
- 5.3.4 There has been a continued focus on the role of effective scrutiny at West Lindsey, particularly given the recommendations enacted from May 2019.
- 5.3.5 There have been several matters brought to the attention of the Monitoring Officer regarding the functioning of this Committee, and the effectiveness of committees survey responses received were concerning.
- 5.3.6 These previous amendments have not proved wholly successful (for example, the limitations on Membership have at times led to low numbers attending the Overview and Scrutiny meetings as there have been no substitution options available), and the change in name seems to have had little impact on the committee's effectiveness. **As detailed in Section 2 of the report it recommended that this membership restriction be lifted.**
- 5.3.7 Given the fairly unique circumstances of being a fourth option council, and therefore without the legal requirement to retain a scrutiny committee, it is essential that the committee addresses aspects of work that would not otherwise be dealt with in any of the other committees.
- 5.3.8 Whilst this has been case for some meetings in 2019/20, with the visits from Lincolnshire Police and the Environment Agency, it is anticipated that this role could be extended, and the scrutiny of external agencies and partners (ideally connecting via a topic linking to the corporate plan) should be the focus for 2020/21. The already agreed reduced reporting on performance and delivery will also provide additional capacity for this external focus.

5.3.9 Some minor tweaks to the terms of reference **have been recommended in Section 2** of the report, to support the Committee to fully fulfil its role and to increase the emphasis on engagement with 3<sup>rd</sup> parties, and further provision can be made within the Committee's Operating Methodology to support this ethos. However given the recent Peer Review also raised the role of the Committee as a matter which the Authority should give further consideration to and determine clarity around , no fundamental changes are being proposed at this time.

5.3.10 The role of the O and S Committee, in light of the outcome of the Peer Review, which is yet to be considered in detail, will remain a focus of attention for 2020/21 – further information is contained in Section 6 of this report

#### 5.4 **Review of the Policy Committees**

5.4.1 There have been no matters brought to the attention of the Monitoring Officer regarding the functioning of the Policy Committees, either in person or via the effectiveness of committees survey responses received.

5.4.2 The introduction of the Concurrent Meeting Protocol has overcome a number of previous issues and continues to be used for complex, large scale transformational projects where there are both significant policy and financial implications for the Authority.

5.4.3 There has already been a commitment to use the concurrent committee approach to the viable housing solution which is being developed and meets all the criteria to support a concurrent approach.

5.4.4 The Concurrent Committee consultation arrangement also proved successful in supporting governance through recent exceptional times.

5.4.5 Therefore no changes are being proposed to either Policy Committee as a result of this review.

#### 5.5 **Petitions**

5.5.1 The Petition Scheme had not been reviewed since its introduction in 2009/2010.

5.5.2 A review of similar authorities' petitions schemes has been undertaken to ensure the Council's Scheme is still fit for purpose.

5.5.3 There are no fundamental recommendations arising from the review however a number of **points of clarity are recommended for inclusion within the Scheme, these are detailed in Section 2 of the report.**

5.5.4 The possibility of introducing e-petitions was also investigated but is not being recommended for introduction at this time.



## **5.6 Member Development**

- 5.6.1 The focus for the Member Development Group, after the success of the Induction Programme in May 2019, has been to finalise the By-Election Induction Programme and to test online training options with a view to roll-out to all Councillors after May 2020 – this is currently delayed pending meetings of the Governance and Audit Committee resuming.
- 5.6.2 It is anticipated that on-line training will be in addition to ongoing face-to-face sessions, dependant on the subject matter. The uptake and success of this roll-out will be monitored by the Democratic Services Team with future plans dependant on usage and feedback from Elected Members.
- 5.6.3 Throughout the year a rolling programme of development opportunities has been shared on a regular basis with Members and the Members' Bulletin has been used to emphasise these opportunities. The library on modern.gov has been updated with information on all sessions since May 2019 and this will continue to be the main access point for presentations after each training event.
- 5.6.4 The Member Development Group reports progress periodically through the Governance and Audit Committee and reports submitted during the 2019/20 year can be viewed [here](#).
- 5.6.5 Member Development will continue to be a focus in the 2020/21 civic year. Further information is contained in Section 6 below.

## **5.7 Members ICT**

- 5.7.1 Following the elections in May, Democratic Services offered one-to-one training to all elected Members. Many Members took up this offer. Independent Members were issued with their iPads slightly later in May, and were given a group session with a Democratic Officer. Independent and Elected Members were subsequently offered further one to one help if it was required.
- 5.7.2 Written guidance was provided to Members on collection of their iPad as part of their overall 'induction pack'; this guidance is also available electronically on the Members' library. A 'buddy' system was initially offered to Councillors, and used mainly by newer Members; however as we moved into June/July of 2019 this was replaced by an offer of help by Democratic Services via telephone/email/face to face as and when Members needed it.
- 5.7.3 The move to iPads was a big change to the way elected members were asked to work and overall is considered to have been successful. There has been an audit around the Security of Members iPads and this received substantial assurance.

5.7.4 Feedback has been regularly sought and received from Members since the introduction of iPads; this feedback was largely positive, although Members did point out issues with the iPad that they thought could be ironed out.

5.7.5 Democratic Services with support from IT have responded to requests of support from councillors in the use of their iPad, for example:

- digital pens were issued shortly after the election so that Members could write notes electronically on committee papers.
- Calendar invites have been automated so that Councillors do not have to accept appointments; they automatically get inputted into Member calendars.
- A solution introduced as a means for receiving emails when elected Members are on the move (through their mobile phone), subject to certain conditions.
- Further guidance notes issued on specific matters, such as completing expenses and the use of word and excel in general.

5.7.6 Democratic Officers will continue to review the guidance to see if there are any gaps. Facilitating targeted training sessions is within the Democratic Services Team Plan and appraisals. Feedback will continue to be sought from elected Members and mitigating measures introduced where feasible to overcome any difficulties.

5.7.8 The roll-out of a Council owned device has proved invaluable in allowing business to continue during exceptional circumstances.

## **5.8 Review of Governance of Accountable Bodies**

5.8.1 The Governance of Accountable bodies has been taken into account when reviewing financial regulations and contract procedure rules and no amendments are required directly as a result.

## **6 Associated Work Planned to be undertaken during the 20/21 year**

6.1 Whilst undertaking the annual review of the Constitution a number of other associated actions for further work, development or “watch in brief” have been identified, namely: -

### **6.2 The role of the O and S Committee in light of the Peer Review Recommendations**

6.2.1 As detailed in Section 5 of the report the role and functioning of the Committee continues to require refinement.

6.2.2 This matter is confirmed by the recent Peer Review which stated

“Review the overview and scrutiny function – there are mixed views and questions about the function generally, including its effectiveness and purpose. This was reviewed about 18 months ago but there are already differing opinions about the value it adds. A further review is therefore needed to identify the function’s value and how it can be most effective, in particular how it can engage all members constructively.”

- 6.2.3 Given the findings of the Peer Review have not yet been considered in detail, the main focus of 2020/21 will be forming a response to the recommendations made. The Council is committed to maintaining an efficient and productive scrutiny role for the committee and so there will be ongoing reviews of how best to achieve that function
- 6.2.4 In the interim the restrictions on membership have been removed and minor amendments to the terms of reference proposed to support the O and S Committee to fully fulfil its role and to increase the emphasis on engagement with 3<sup>rd</sup> parties.
- 6.2.5 The Operating methodology for 2020/21 will also be amended to support a more external looking approach, for example by reducing the number of internal pre-scrutiny items permitted and introducing a requirement to approve a theme connected work plan, separate to any other function within the council at earliest opportunity each civic year.
- 6.2.6 Any recommendations arising from the monitoring of the Committee’s effectiveness will be made as part of the Annual Review for 2020/21, and would become effective from Annual Council May 2021

### **6.3 Parish Charter**

- 6.3.1 Work commenced during the latter part of the 2019/20 Civic Year to introduce a Parish Charter. The Charter is currently out for consultation and the findings were expected to be reported back through the Committee process in June. This work will likely be delayed due to the current pandemic.
- 6.3.2 The introduction of a Parish Charter may see the need arise to review our Constitution to ensure it reflects all of the principles ultimately agreed within the Charter.
- 6.3.3 Any work of this nature, arising from the introduction of a Charter, will be reported through the Governance and Audit Committee throughout 2020/21.

### **6.4 Recommendations of the Committee of Standards in Public Life and “watching brief” of the development of a new model code of Conduct**

- 6.4.1 Back in January 2019 the Committee for Standards in Public Life made a series of recommendations in respect of the current Code of Conduct

Regime. With Brexit and now COVID- 19, the recommendations progression through Parliament has been slow. However, The Board of the LGA at its meeting on 11 September 2019 considered and agreed to commence reviewing of the Code ahead of Central Government's response to the recommendations of the report, and appointed Hoey and Ainscough to undertake this work.

- 6.4.2 If the code is completed before any government response, Local Authorities will be able to adopt the Code. Some of the recommendations in the report of CoSPL (for example the power to suspend councillors) requires legislation which means that provisions cannot be included in the Code.
- 6.4.3 The Council, through its Standards Sub-Committee will continue to lobbying on the recommendations made by the CoSPL and respond to consultations regarding the development of a new Code.
- 6.4.3 If it is considered appropriate to do so, and of benefit to the Authority proposals may be brought forward during 2020/ 2021 to adopt any new model code introduced by the LGA.
- 6.4.4 Consultation on the draft code was due to close on 25 April and was expected to be considered by the LGA Board in early June. We await an update as to how the timescales for this project have been effected by current events. Note: as at May 2020 consultation suspended and new timeline awaited.

## **6.5 Member Development**

- 6.5.1 The roll-out of online training for all Councillors will be the focus for 2020/21, including provision of support sessions and advice, subject to approval by the Governance and Audit Committee.
- 6.5.2 Through the annual report which is usually presented at G&A Committee in July, the Member Development Group will present the priorities for the coming year and beyond.
- 6.5.3 It is expected that the biennial mandatory training, as specified in the Constitution, will be programmed for 2021/22 and notified to all Councillors, with a view to ensuring maximum attendance.
- 6.5.4 Member engagement continues to be a key element for progressing Member development and it is anticipated that any online options introduced will also be reviewed to ascertain any increase in numbers attending or accessing development opportunities.
- 6.5.5 The training material available currently through the Council's already in place on-line learning platform aimed at employees is very much aimed at softer, personal skills. There is little content currently to address training of a statutory nature with the exception of perhaps IT Governance and Safeguarding. Further platforms may need to be

investigated if the current Learning Pool catalogues are not considered to provide the necessary content and investment would likely be required.

## **6.6 Virtual meetings**

- 6.1 At the present time, in light of the COVID-19 Pandemic there are temporary regulations in place permitting virtual Committee Meetings. Whilst it is hoped these new regulations will not need to be used for a significant period of time, the Authority is committed to making virtual meetings a reality as opposed to relying on Officer Delegations to make decisions.
- 6.2 Through the early part of 2020/21 the Democratic Services Team will develop, embed and train Members on new meeting procedures, and the technology needed to facilitate virtual meetings.

## **6.7 Commence work on 4<sup>th</sup> tier governance review**

- 6.7.1 To date the main work in this area has been around scoping of the work to understand the desired outcomes and to be clear about expectations of the review. This work is anticipated to progress during the 20/21 Civic Year.

## **6.8 Review of the Public Participation Scheme applied to Planning Committee**

- 6.8.1 As referenced in section 2.6, the interaction between the Planning Committee/ Department, Elected Members, Public and Parish Councils continues to be highlighted in consultation responses.
- 6.8.2 One document which supports these interactions in the Committee setting is the Public Participation at Planning Scheme. It is therefore considered prudent that this document be reviewed in its entirety to ensure it remains, fair and equitable to all.
- 6.8.3 An arising amendments will be reported through the 20/21 Constitution Review.

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

- 7.1 This part of the report deals with changes to Governance of the Council which have taken place during the year.

7.2 The Sections below provide updated positions in respect of each together with information on how the Council governs its business interests.

### 7.3 West Lindsey Owned Companies

7.3.1 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 Chief Executive, Ian Knowles. However this responsibility has been formally sub delegated to the Monitoring Officer as part of the changes in responsibilities as a result of the appointment of a Chief Executive. This change forms part of the constitutional review detailed earlier in this report. In practice the shareholder role is carried out by way of formal reporting to the Corporate Policy and Recourses Committee.

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

Key: -

AM – Andrew Morriss – Independent Lay Member of the Governance and Audit Committee

TB – Tracey Bircumshaw – Finance and Business Support Manager

AR – Alan Robinson - Monitoring Officer and Acting Director of Governance

AS – Ady Selby - Interim Assistant Director

SGS – Sally Grindrod-Smith – Assistant Director of Planning and Regeneration, Projects and Growth

DPL – Dransfield Property Limited

7.4.2 During 2019/20 The SureStaff 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.

7.4.3 There have been a number of changes agreed to the West Lindsey representatives for the companies. These have been formally approved during the year. Ady Selby has been appointed Director of the Sure Staff

Companies following the departure of Karen Whitfield and Sally Grindrod-Smith has taken over from Eve Fawcett-Moralee as Director of Market Street Renewal Ltd.

7.4.4 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.

## **7.5 Development Agreements**

7.5.1 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.

7.5.2 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.

7.5.3 All such agreements are agreed at Corporate Policy and Resources Committee

## **7.6 Commercial Property Portfolio.**

7.6.1 At the Corporate Policy and Resources Committee on 13<sup>th</sup> April 2017 members agreed a criteria for investment in commercial properties.

7.6.2 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 Chief Executive following consultation with the Chairman of Corporate Policy and Resources Committee.

7.6.3 The criteria was revised at the meeting of the Corporate Policy and Resources on 10<sup>th</sup> 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.

7.6.4 The table below sets out the scoring criteria which is used to evaluate properties for the portfolio.



Financial considerations				
<p><b>Lot Size (Capital Value)</b> - The core initial lot size target is £1.0m - £4m. Taking into account the Council's total investment return of £20m it is recommended that a minimum of 8 assets are held without any single asset being overly dominant. A spread of £1.0m to £4m implies an average asset value of £2.5m and a portfolio of c.8 assets.</p>	£2.0m - £5m	£1.0m - £2.0m or £5m - £7.5m	£500k - £1.0m or £7.5m - £10m	<£500k or >£10m
	5	3	1	0
<p><b>Rate of Return (Net Yield)*</b> - Investments will look to achieve an overall target yield of circa +/- 1% of the average net yield of the entire portfolio for which the target is which is currently 7.0%.</p> <p>*the return to the council after consideration of agents fees (1%), legal fees (0.5%), Stamp Duty Land Tax (at prevailing rate), external management costs (if applicable), survey costs (estimated) and any void costs.</p>	6% to 8%	5% to 6% / >8% to <10%	<5% or 10%	N/A (property vacant)
	5	3	1	0
<p><b>Lot Size (Annual Rental Income)</b> - The target income range is between £150k and £300k pa. This is driven by the Authority's target net return of 7% and the identified target lot size of £1.0m - £4.0m.</p>	£125k p.a. - £300k p.a.	£100k p.a. - £125k p.a. or £300k p.a. - £600k p.a.	£50k p.a. - £100k p.a. or £600k p.a. - £800k p.a.	<£50k p.a. or >£800m p.a.
	5	3	1	0
Property/Asset Considerations				
<p><b>Sector</b> - The council should invest in a diversified and balanced portfolio with a focus on the traditional lower risk sectors of Offices, Industrial and Retail; the spread of sectors will limit the Council's exposure to volatility in a particular area.</p>	Traditional Property type (Office, Industrial, Retail)	Leisure	Healthcare or Other Business Uses	Residential

	5	3	1	0
<p><b>Location Quality</b> - the 'Primeness' of an asset's location will depend very much on the nature of each individual asset and the market within which it competes. Prime locations by sector can broadly be outlined as follows:</p> <p>Offices - located within an established business district of a major UK city or on an established out of town business park with access to amenities and good transport links.</p> <p>Industrial - located within close proximity to UK motorway network or transport hub (airport/port/rail links) or an established and successful industrial/manufacturing park.</p> <p>Retail - located within the retail core of a major UK city or an established and successful out of town retail location.</p>	Primary	Secondary	Tertiary	N/A
	5	3	1	0
<p><b>Located Proximity to WLDC</b> - Location will be dictated by opportunity to acquire investments that meet the strategy. A balanced portfolio would not usually be restricted to WLDC's administrative boundary and would consider opportunities to purchase further afield focusing initially on investments more locally, i.e. in the LEP/area, before expanding the search country/UK wide.</p>	Within WLDC	Within 1 hr drive time	Within 2 hr drive time	>2hr drive time
	5	3	1	0
<p><b>Tenure</b> - When considering the tenure of an asset, freehold would be preferable to leasehold. Freehold provides the greater levels of security against a leasehold asset that would effectively decrease in value over time. However assets on long leasehold basis may still be suitable for consideration where the lease term remaining is 125 years or more.</p>	Freehold	Long Leasehold (125 yrs+)	Long lease between 75yrs & 125yrs	Long lease less than 75yrs
	5	3	1	0
<p><b>Building Condition</b> - The age and specification of the property will also affect the ability of the Council to let or sell the property in the future. It must also be taken into consideration in respect of the cost of protecting the investment and the undertaking of repairs and refurbishment if the cost cannot be fully recovered from the tenant. Preference should therefore be for modern and efficient stock. Consideration should also be given to any landlord costs associated with works that may be required to bring the property up to a satisfactory EPC level (new leases should have a minimum EPC rating of 'E' by 1st April 2018) if it is not already.</p>	Good	Fair	Poor	Not Acceptable
	5	3	1	0
<b>Security of Income/Leasing</b>				

<b>Covenant Strength</b> - With tenanted properties there should be consideration of the quality of the tenant and more importantly, their ability to pay the rent on time and in full. Consider Dun & Bradstreet, Experia credit rating when applying Financial Covenant score. If Property is multi-let it may be acceptable to have some weaker tenants within the tenant mix as the risk is diversified to a certain extent.	<b>Strong financial covenant</b>	<b>Good financial covenant</b>	<b>Limited financial covenant</b>	<b>Poor financial covenant/vacant</b>
	<b>5</b>	<b>3</b>	<b>1</b>	<b>0</b>
<b>Unexpired Lease length</b> - In the case of a tenanted property, the unexpired length of the term of the lease is of key importance in ensuring that the landlord's revenue stream is uninterrupted. This must consider any upcoming breaks and assumes the tenant breaks at the earliest opportunity. For multi-let properties consider the Weighted Average Unexpired Lease Term (WAULT) i.e. the average lease term remaining to first break, or expiry, across the property weighted by contracted rent.	<b>10yrs+</b>	<b>5yrs to 10yrs</b>	<b>Between 2yrs &amp; &lt;5yrs</b>	<b>Less than 2yrs/Vacant/Holding Over</b>
	<b>5</b>	<b>3</b>	<b>1</b>	<b>0</b>
<b>Rent Review</b> - To increase income there must also be consideration of upcoming Rent Reviews in terms of the time frame and the method (i.e. upward only, RPI/CPI etc.) There should also be some consideration to the Rental Growth Prospects.	<b>Stepped rent/RPI or fixed uplifts</b>	<b>Open Market Rent (5 yearly)</b>	<b>Unusual review format (i.e. 14 yearly)</b>	<b>No RRs</b>
	<b>5</b>	<b>3</b>	<b>1</b>	<b>0</b>
<b>Rental Growth Prospects</b> - This considers the passing rent in relation to the market conditions and prospects for increase in income having regard to estimated rental value compared to passing rent. At a minimum the Market Rent should be equal to the Passing Rent.	<b>Substantial Rental Growth Prospect</b>	<b>Some Rental Growth Prospect</b>	<b>Rack Rented/No Likely Change</b>	<b>Over rented (i.e. Passing Rent &gt; Market Rent)</b>
	<b>5</b>	<b>3</b>	<b>1</b>	<b>0</b>
<b>Repairing terms</b> - There should be preference for investments with full repairing and insuring (FRI) terms meaning that all costs relating to occupation and repairs are borne by the occupier(s) during the lease term with only insurance premiums recharged and service charge (if applicable).	<b>Full Repairing/fully S/C recoverable</b>	<b>Internal repairing - s/c recoverable by capped</b>	<b>Internal repairing - partially recoverable</b>	<b>Internal Repairing - non-recoverable/Landlord only</b>
	<b>5</b>	<b>3</b>	<b>1</b>	<b>0</b>
<b>Occupancy rate</b> - Ideally the property will be fully let and income producing. A vacant or mostly vacant property potentially provides the opportunity to increase income (depending on market demand, building condition etc.,) Also, there should be consideration as to the ease of getting the property fully occupied and the expense which the Landlord will have to pay in the interim i.e. empty rates, repairs and redecoration etc.	<b>Fully let (100% let)</b>	<b>Part Let, Part Vacant (&gt;70% &amp; &lt;100% let)</b>	<b>Mostly Vacant (50% - 70% let)</b>	<b>Predominantly vacant</b>
	<b>5</b>	<b>3</b>	<b>1</b>	<b>0</b>

- 7.6.5 One additional investment property was purchased during the year this was Land and Buildings on the North side of Wheatley Hall Road, Doncaster, DN2 4LT at the purchase price of £5,350,000.00
- 7.6.6 This purchase was reported to members at the Corporate Policy and Resources Committee on 7<sup>th</sup> November 2019 in accordance with the agreed delegations.
- 7.6.7 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.

## **8 Data Analysis Of The Number, Nature And Outcome Of Complaints Received Under The Code Of Conduct.**

8.1 The Standards Sub-Committee at its meeting on 6 November 2019 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 the Civic Years 2016/2017 – 2019/2020 (to-date – which was August 2019)

8.2 The full report can be viewed at: -

<https://democracy.west-lindsey.gov.uk/documents/s16312/number%20nature%20and%20outcome%20of%20complaints%2019-20%20to%20date.pdf>

and includes information on the current approach adopted.

8.3 The sections below set out an updated position in respect of complaints data for the 2019/2020 civic year up to **March 2020**.

8.4 During 2019/2020 there have now been a total of 15 complaints.

8.4.1 11 relate to Parish Councillors and 4 relate to District Councillors.

8.4.2 The nature of these complaints is summarised below:

- |                           |   |                                   |
|---------------------------|---|-----------------------------------|
| • Respect                 | 4 | (District Council (3) Parish (1)) |
| • Openness                | 1 | (Parish Council)                  |
| • Honesty                 | 2 | (Parish Council)                  |
| • Leadership              | 3 | (Parish Council)                  |
| • Acting outside of remit | 1 | (District Council)                |
| • Interests               | 1 | (Parish Council)                  |
| • Bullying/ Harrass       | 3 | (Parish Council)                  |

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

- Potential Breach            6\*     (deemed potential as investigation at this stage)
- Rejected                        3
- Non Breach                    9

8.4.4 Through the course of 2019/20 of the 6 potential breaches referred to above, 4 have been referred for investigation. 2 relating to a District Councillor and 2 relating to Parish Councillors.

8.4.5 The two complaints against the District Councillor were proven and this matter was reported through to Full Council in November 2019, as part of a full public report, and sanctions were imposed.

8.4.6 One complaint against a Parish Councillor, following investigation, resulted in a finding of no breach. No further action was taken and this was not part of a public report. The outcome of the other investigation into a Parish Councillor is currently awaited.

## **9        Recent Appointments made by the Monitoring Officer**

### **9.1     Parish Council representatives on the Standards Committee.**

9.1.1 There are two posts on the Standards Sub-Committee. These were both vacant following the May 2019 Elections. Following a recruitment process carried out by a panel of the Chair of the Standards Sub-Committee, The Monitoring Officer and the Deputy Monitoring Officer, two new Parish Councillors were recommended for appointment. These are Councillor Elizabeth Hillman from Saxilby Parish Council and Councillor Bruce Allison from Scotter Parish Council.

9.1.2 **Council are asked to ratify these appointments and formally appoint Parish Councillors Elizabeth Hillman and Bruce Allison be appointed as non-voting Parish Council Representative on the Standards Sub-Committee, until Annual Council May 2024 (or until such time as they no longer hold the office of Parish Councillor).**

## **10     Monitoring Arrangements for the Leisure Contract**

10.1 The leisure contract is a comprehensive document which details the expectations from both parties. It covers activities at the Gainsborough Leisure Centre, expectations for Market Rasen Leisure Centre once it is completed and a range of outreach activity across the district. The provider is Everyone Active.

10.2 The performance of the contract is continually being monitored through monthly client meetings with the provider, Everyone Active, and through

ad-hoc visits on a weekly basis. All meetings are documented and service issues are considered.

10.3 During the year a number of issues have been raised by service users and Councillors regarding cleaning and hygiene. These have been addressed through meetings with the site manager and by ad hoc site visits by the contract manager. The contract manager has also engaged with the service users concerned and feedback has been provided. As a result plans have developed with the contractor to address the concerns. Actions include a modified cleaning regime and staff training.

10.4 There are measures in the Performance and Delivery report which members review on a regular basis these are

- Leisure Centre Usage
- Customer Satisfaction
- Number of outreach users
- Number of users referred through participation in Healthy Lifestyle Schemes
- Annual measure relating to whether or not external Quest accreditation has been maintained. Details of the scheme are available at <https://questnbs.org/about-us/about-quest>

10.5 We also monitor outcomes in the annual state of the District report which includes information relating to physical activity and participation in sport. Details of Sporting Facilities are also included in the state of the district report.

## **11 Support to Parish Councils.**

11.1 As Monitoring Officer, I regularly support Parishes on an informal basis throughout the year. As well as through my powers in relation to the Code of Code Conduct. However, the Constitution also provides me the relevant powers to: -

4. To make, under Section 91 of the Local Government Act 1972, temporary appointments of members to town and parish councils following consultation with the Chairman of the Governance and Audit Committee. (Part IV / Page 33)

11.2 Following the Elections in May 2019, there were a number of Parish Councils who were not in a position to legally operate due to them not having the required number of elected members to be quorate. Being in this position means that even when the Parish Council find an interested party to join the Council, the Parish Council cannot formally co-opt that person as they do not have a quorum to make such a decision; they are in effect left in limbo.

- 11.3 During the 2019/ 2020 the Monitoring Officer, with assistance from Ward Members, has assisted four such Councils, using this delegated power, to varying degrees namely: -

Scotton  
Northorpe  
Brattleby  
Langworth

- 11.4 The Monitoring Officer, Deputy Monitoring and relevant Wards members have for short periods acted as Members of these Parishes purely for the purposes of ensuring any interested parties can be legally co-opted ensuring the Parish Council is therefore in a position to continue function independently.
- 11.5 Sometimes this has seen multiple appointment made to a single Parish Council and administrative actions being undertaken to keep the Parish Council functioning.
- 11.6 All of these Parishes are now in a position to function independently once again.
- 11.7 This level of support will be formalised in the emerging Parish Charter.

## **12 Interim Decision Making Process during COVID 19 outbreak.**

- 12.1 In March 2020 the COVID 19 outbreak lead to a number of changes to the decision making process at West Lindsey DC. All meetings were cancelled and the use of the delegation scheme was invoked as an alternative to Committee decisions.
- 12.2 The constitution allows for this situation and gives the appropriate delegations to the Head of Paid Service in consultation with key elected members. This is in accordance with paragraph 4 of the Head of Paid Service duties which are contained in part IV of the Constitution.

4. To determine any matter within the referred or delegated powers and duties of a committee/sub-committee/board/ working group which is so urgent that a decision must be made before the next meeting of that committee/sub-committee/board/working group is due to be held.  
**(Limits on delegations:** Before making any decision pursuant to this delegated power, the Head of Paid Service shall consult with and take cognisance of the views of the Chairman of the relevant committee/ sub-committee/ board/ working group (or, in his/ her absence, the Vice-Chairman of that committee/ sub-committee/ board/ working group). Any decision taken by the Head of Paid Service under this delegated power shall be reported to Members within five working days of the decision being taken.

The Governance has been tested by the emergency and the Constitution has enabled all necessary action to be taken without making any changes.

12.3 The flow chart below gives details of the process of decision making during the emergency situation



12.4 As of 4 April 2020, Regulations permitting remote or virtual meetings became effective and the Authority reviewed its previous decision to suspend all meetings.



- 12.5 A revised Committee timetable has been agreed and a managing virtual meetings procedure has been developed.
- 12.6 The Authority has used a combination of MS Teams and “connect anywhere” software, developed by our webcast provider, Public-I, to meet all the requirements of the regulations.  
(<http://www.legislation.gov.uk/uksi/2020/392/contents/made>)
- 12.7 The Authority has been able to maintain public participation and has not needed to reduce committee membership to quorum levels.
- 12.8 The regulations which support virtual committee meetings, cease to become effective on 7 May 2021. Throughout the 20/21 Civic year the use of and need for virtual committees will remain under review. At the time of writing this report, virtual committees are expected to be in place until at least September 2020.