



Governance and Audit  
Committee

18 April 2023

**Subject: 2022/2023 Annual Constitution Review & Annual Report of the Monitoring Officer**

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.

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, when considering the Annual Review, are also traditionally asked to approve the amendment(s) made to the Financial and Contract Procedure Rules, (which are subsequently noted by Council as part of the Annual Review). Amended Procedure Rules are attached for approval with amendments summarised in Section 4.

**RECOMMENDATION(S):**

The Governance and Audit Committee are asked to:

- (1) **Approve** the amendments to the Financial and Contract Procedure Rules, summarised in Section 4, and attached as Appendices 5 and 6 to this report. (These will subsequently be noted by Full Council when considering the Annual Constitution Review report)
- (1) Agree that the governance outlined in Section 8 of the 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
- (2) Acknowledging the report is drafted for Annual Council, grant delegated authority to the Monitoring Officer, in consultation with the Chairman of the Governance and Audit Committee, to update the report following consideration by the Committee where further progress is likely to be achieved, or to reflect Committee's views.

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

- (1) that the outcome of the 22/23 annual review, as detailed in the report be received and noted;
- (2) that the additional amendments detailed throughout Section 3 of this report, identified during the 22/23 review be adopted and implemented with immediate effect;
- (3) the appointment of Mr Andrew Morriss as Independent Member on The Governance and Audit Committee until Annual Council May 2027 (Section 11) be approved.
- (4) that delegated authority be granted to the Monitoring Officer, in consultation with the Chairman of the Governance and Audit Committee, to amend the Scheme of Corporate Delegations (pages 48 – 60 of Section IV), if required, on approval of HR policies by Corporate Policy and Resources Committee throughout 2023/24.
- (5) that
  - the progress made with regards to the areas of work agreed for further development in the previous review (Section 2);
  - the areas considered but not taken forward (Section 6)
  - the further planned work for 2023/24 onwards (Section 7);
  - the introduction of the Subsidy Control Act (Section 9)
  - the statistical data provided within the report in respect of the number, nature and outcome of Code of Conduct Complaints (Section 10);
  - the support offered to Parish Councils (Section 12); and
  - the use of the Council's RIPA powers during the period (section 14)be received and noted.
- (5) that the amended Financial Procedure Rules and Contract Procedure Rules approved by the Governance and Audit Committee be noted.

## IMPLICATIONS

### **Legal:**

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

### **Financial :**

There are only very limited financial implications as a result of making amendments to the Constitution; these 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. It also defines responsibilities between Officers

### **Equality and Diversity including Human Rights :**

The Constitution sets out the Member Code of Conduct and the Officer Code of Conduct.

Respectful and positive behaviours are a key aspect of good governance.

### **Data Protection Implications :**

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

The Council has minimised the use of paper copies of the Constitution in circulation.

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

### **Health Implications:**

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

Annual Constitution Review 2021/22  
Effectiveness of Committees Surveys  
Logged Matters Arising  
Complaints  
Feedback from Officers / Members working with the Constitution.

**Risk Assessment :**

**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 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 3 of the report. Officers will give consideration during 2023/24 as to whether a more comprehensive review of the Constitution is required in coming years, noting the date (above) when such work was last undertaken.
- 1.4 The Constitution, has continued to be tested during the 2022/23. As Monitoring Officer I am pleased to report that it has provided a clear and robust framework for the governance and decision-making of this Council. This has been especially important with the delivery and inception of some very ambitious projects which no doubt will benefit our visitors and residents for many years to come, another reason to support minimal changes at this time.
- 1.5 As part of the last Annual Review considered by Council in May 2022, Members agreed a list of associated work to be undertaken during the 2022/23 civic year namely:
- Parish Charter
  - Member Development
  - Members IT
  - Work on 4th tier governance review
  - Adoption of New Code of Conduct by Parishes
  - Government Response to the Committee on Standards in Public Life's review of Local Government Ethical Standards
  - Review of Council Procedure Rules
  - Working Groups Terms of Reference
  - Call-in Objection Form for Parish Council Use
- 1.6 Section 2 of the report provides a brief update of the work which has been undertaken over the period and any arising outcomes.

- 1.7 Any proposed amendments arising from this work or feedback received through the year are contained in Section 3 of the report, with all amendments being brought together in a table of changes for implementation at paragraph 3.9.
- 1.8 On this occasion some amendments proposed throughout the review are not being proposed for progression; these are detailed at Section 6 of the report together with the rationale.
- 1.9 Section 7 details associated work planned to be undertaken during the 2023/24 civic year, including those areas of work which have not progressed as expected in 2022/23, and concludes the Annual Review.
- 1.10 Sections 8 – 14 make up the Monitoring Officer's Annual Report and aim to provide a holistic overview of all governance matters.
- 1.11 Section 8 of the report sets out the governance arrangements in place to manage Commercial and Economic Growth and Section 9 is a new section outlining the implications of the new Subsidy Control Act 2023 and a statement of compliance.
- 1.11 Section 10 presents a data analysis of the number, nature and outcome of complaints received under the Code of Conduct, during the 2021/22 civic year
- 1.12 Section 11 of the report asks Council to approve the appointment of an Independent Member of the Governance and Audit Committee due to an expiry of office.
- 1.13 Section 12 details support the Monitoring Officer has provided to a number of Parish Councils to ensure their continued functioning.
- 1.14 Section 14 was a new addition in 2020/21 and provides information in respect of the Council's Regulation of Investigatory Powers (RIPA). A review of arrangements saw an arising recommendation from the Inspector that Members should receive at least annually the number of times the Council has used it powers. The Monitoring Officer's Annual report is the channel through which such information is reported and concludes the Annual Report.

## **2 Progress made with regards to those areas of work agreed for further development in the previous review**

- 2.1 As detailed at Section 1.6 of the report, as part of the last Annual Review undertaken, Members agreed a list of associated work to be undertaken during the 2022/23 civic year.
- 2.2 This Section provides a brief update on the progress which was achieved during 2022/23 in respect of each of these:

### **2.3 Parish Charter**

- 2.3.1 In the 2021/22 Review, Members were advised of previous commitments to re-invigorate this work and report annually to the Prosperous Communities Committee.
- 2.3.2 Governance and Audit Committee have previously recognised that the Parish Charter may see the need arise to review our Constitution to ensure it reflects all of the principles ultimately agreed within the Charter.
- 2.3.3 Last year's review saw a commitment to submit a report to the Prosperous Communities Committee in early 2022/23, indicating work to be undertaken, in year, in relation to the Charter and the reasons for delays to date. It was further suggested that this should include an holistic review of the Parish Charter led by the MO, and be split into two elements; one focussing on governance and the second on communities.
- 2.3.4 Whilst the planned review has not taken place, the relationship with Parish Councils continues to improve and is demonstrated in other areas of the report. The commitment to implement a Charter to further improve engagement with these key local stakeholders remains.
- 2.3.5 To ensure buy-in and a mutual commitment to the content of the Charter, the review and refresh of the Charter should be undertaken in consultation with Parish Councils and, as such, details of how it is intended to progress this aspect of work, during the next election terms, are set out in Section 7.2 of the report.

## **2.4 Member Development**

- 2.4.1 The 2021/22 Review indicated the focus which would be given during 2022/23 to prepare for the 2023 Full Induction Programme.
- 2.4.2 The outline Induction Programme was agreed by the Governance and Audit Committee at its meeting on 24 January 2023 and can viewed [here](#)
- 2.4.3 External Trainers, where required, have been booked, and Democratic Officers are working with colleagues across the organisation to ensure the 2023 Induction Programme not only provides the quality of sessions seen in 2019, but also builds on the wider vision for the district. The approach approved by the Governance and Audit Committee in January 2023 includes a two-day Service Fayre, where teams will be available for 'meet and greet' and to explain the breadth of services provided. In an improvement to the 2019 Induction, the timetable has been developed to enable greater flexibility for those Elected Members who may find day time sessions difficult to attend, as well as some areas of interest having been singled out for additional sessions. These have tended to be areas where current-serving Councillors have highlighted greatest need for additional information in relation to resident enquiries (for example, enforcement case work).

- 2.4.4 The Member Development Group continues to report progress periodically through the Governance and Audit Committee and reports submitted during the 22/23 year can be viewed [here](#)
- 2.4.5 The commitment to provide annual mandatory training to the Governance and Audit Committee in respect of Scrutiny of the Treasury Management Statement and Statement of Accounts was fulfilled, with sessions held in November 2022 and January 2023. As was the commitment to hold mandatory sessions for Planning Committee Members, with sessions held in June 2022 (postponed from April).
- 2.4.6 The recording of on-line training, having received positive feedback and it allowing Members to access required training at times convenient to them, has continued throughout the period. Democratic Services have committed to making greater use of the Library available via Mod.Gov, for the hosting of such content in an indexed fashion, from the inception of the newly elected Council.
- 2.4.7 The roll out of the online learning platform, albeit delayed, was achieved in December 2022. Members have had the opportunity to attend familiarisation sessions and the ability to request further 1-2-1 support if necessary going forward. Initial modules launched related to support in the Councillor Role and personal development course. The Learning Pool Platform will be used as a tool as part of the 2023 Induction and beyond, with each Elected Member receiving their log-on details and initial user guides as a part of their IT introduction.
- 2.4.8 With continued resourcing difficulties within the Democratic Services team, it is recognised that Member Development in general has not had the focus placed on it that would usually be expected, and the Member Development Group has not been engaged as much as in previous years. The valuable input of the Member Development Group has been proven in previous years, and it is the intention for the involvement of this Group to be renewed throughout 2023/24.
- 2.4.9 With a new cohort of Members from 2023, fresh from what is hoped to be a valuable and useful induction experience, and with more pronounced use of the on-line learning platform, Member Development will continue to be a focus in the 2023/24 civic year. The focussed aims for next year are contained in Section 7.3 below.

## **2.5 Members IT**

- 2.5.1 As was committed to in the 2021 /22 Review, a full review of Members IT has been undertaken during 2022/23. The outcome of that review was reported to Corporate Policy and Resources Committee in February 2023, and can be viewed here [Report \(west-lindsey.gov.uk\)](#)
- 2.5.2 A well-received addition to the offer was the ability for Members to access e-mails on their personal mobile phones, aiding the agility required.



- 2.5.3 The revised IT offer will become available to Members on their election in May and the issuing of and supporting Members with their IT devices, is an integral part of the Induction process. User guides will be available as will 1-2-1 support. The use and benefits of MS Teams has been incorporated – given the much-increased reliance on the package, which was not in use when Members were last inducted.

## **2.6 Community Governance Review Work**

- 2.6.1 This has been an ongoing matter and last year’s review made it clear this would be a large piece of work which would likely need resources, both financial and personnel.
- 2.6.2 There had been a commitment by the then MO to provide the Governance and Audit Committee with a project plan style document in the early part of the 2022/23 Civic Year, in order that implications could be fully understood and a decision made as to how the work should proceed
- 2.6.3 The Project style document to date has not been considered by the Governance and Audit Committee and work in this area has continued to be limited, with further changes in personnel.
- 2.6.4 This will remain on the Governance and Audit Committee’s associated work task list detailed in Section 7.6

## **2.7 Adoption of New Code of Conduct by Parishes – Revisions to Operating Procedures and Filters**

- 2.7.1 Parishes Councils were requested to consider adopting the New Code of Conduct, based on the LGA Model, prior to 30 June 2022. This is not a mandatory requirement however, with both West Lindsey and NALC promoting the LGA Code as the standard to which to work, both withdrawing their previous codes, and prior to this change over 95% of the Parishes in West Lindsey working to either one of those Codes, it was anticipated the change would be embraced.
- 2.7.2 As the 2022/23 civic year draws to a close, we are now in a position where the vast majority of Parish Council across the District, are now working to an LGA Model Code. Fewer than 4 parishes have failed to formally respond and only one has indicated it will not adopt the revised version.
- 2.7.3 It was indicated in last review that would it would be opportune to consider reviewing the operating procedure for managing code of conduct complaints and there was an intention to revise the complaint form, aligning it to the paragraphs of the Code as opposed to the original Nolan principles, to allow for greater analysis of complaints going forward.
- 2.7.4 The Committee on Standards in Public Life’s review of Local Government Ethical Standards, as one of its best practice recommendations, suggested Councils should consider developing

and publishing a filtering system of complaints. Whilst this was one of only two recommendations West Lindsey did not already have in place, a filtering system is still to be developed.

- 2.7.5 This work outlined at 2.7.3 and 2.7.4 had been scheduled for early 2023 with indicative Standards Sub-Committee dates held, but the decision of the then Monitoring Officer to leave post saw this work delayed. Further work to complete these outstanding matters will need to be undertaken in 2023/24 and beyond – Section 7.4 provides more detail

## **2.8 Government Response to the Committee on Standards in Public Life’s review of Local Government Ethical Standards**

- 2.8.1 As advised in the last, on 18 March 2022 the Government published its response to the Committee on Standards in Public Life’s review of Local Government Ethical Standards, 3 years after the original report. <https://www.gov.uk/government/publications/local-government-ethical-standards-government-response-to-the-committee-on-standards-in-public-life-report>
- 2.8.2 It was widely acknowledged through the sector, that the more transformational recommendations, such as the ability to issue meaningful sanctions, would require the passing of primary legislation.
- 2.8.3 The response arguably fell short of what the Sector would have envisaged however it did appear that further consideration would be given to the matter of sanctions, and it further indicated that the Government would be engaging with the sector to progress the commitments made in the response.
- 2.8.4 There has been no active engagement from Government during the 2022/23 Civic year.
- 2.8.5 This is a matter the District Council has continually lobbied for. The District Council also formally supported the Debate not Hate Campaign and will use contents of the toolkit in Members Inductions.
- 2.8.6 The previous commitment remains; the Monitoring Officer, Standards Sub-Committee and Governance and Audit Committee will engage fully in this matter and bring forward relevant reports if required. As such this continues to remain a “watching brief item” and is referenced in Section 7.5

## **2.9 Review of Council Procedure Rules**

- 2.9.1 As reported in the last review this was an area which has continued to see contention arise in meetings throughout 21/22 and that time a number of suggestions had put forward for consideration (full details contained in section 3.7 of last year’s report).

- 2.9.2 Initial comparison had been undertaken across Lincolnshire Authorities, and overall, West Lindsey stood on a similar path. Still, there is precedent from other nearby local authorities for other actions, such as longer notice periods required to submit a question for a Council meeting and the restrictions of questions and motions at other council meeting.
- 2.9.3 In recognition that Standing Orders/ Procedure Rules needed to balance the need for business to progress, while allowing active engagement and that both Statutory Officers and elected Members should have time to consider any fundamental changes and their impact to such a crucial document.
- 2.9.4 As a result no fundamental changes were made last year but a commitment was made to hold a workshop as a priority action in 2022/2023. The intention being that this would serve as both an opportunity for Members to review and amend the rules if necessary, but also as a training opportunity so Members could fully understand what is expected during the rules of debate. It was anticipated that with an increased understanding of the Standing Orders further amendments would likely be requested.
- 2.9.5 Having not being in a position to deliver this Workshop by December 2022, with the agreement of the Chairman of the Governance and Audit Committee, it is suggested this workshop not now be undertaken until the 2024/25 civic year and the outcomes reported in that year's (24/25) review. Section 7.8 sets out the rational for this extended deferral.
- 2.9.6 The 2021/22 review also recommended that an Introduction to Standing Orders and Rules of Debate Training Session should form part of the initial Members' induction in 2023 and should be considered mandatory for Committee Chairmen going forward.
- 2.9.7 Such sessions have been built into the 2023 Induction, approved by Governance and Audit Committee at its meeting on 24 January this year; with one session aimed at all Members prior to Annual Council; and another more specifically aimed at Chairmen once they have been appointed for 2023.
- 2.9.8 The Chairman of the Governance and Audit Committee has, throughout the year, tested the robustness of a number of the procedure rules; including the submission of questions, motions, and points of order, to name a few, providing feedback of his experience, which in turn has informed further this review. The Chairman has also indicated through his testing that he did not experience any significant concerns or weaknesses in the interpretation of the rules.

## **2.10 Working Groups Terms of Reference**

- 2.10.1 Members will recall that the 2021/22 review saw the introduction of a Terms of Reference Template and Guidance to ensure when establishing such Groups key factors were established at the outset.

- 2.10.2 All Working Groups involving Members established in-year have used the recommended template and feedback from Officers around its ease of use and assistance has been positive.
- 2.10.3 The 2021/22 review also identified a number of Working Groups, particularly historic ones, as having either no readily available or unclear terms of reference; with a commitment to re-establish terms of reference where required using the newly approved template, taking reports through relevant Committees for decisions if necessary during 2022/23.
- 2.10.4 There has not being capacity to progress this work within year and given the limited progress, this will remain a “matter to be progressed” – Section 7.7 provides further detail

## **2.11 Call-in Objection Form for Parish Council Use**

- 2.11.1 In June 2021, the Constitution was revised to ensure that for those Parish Councils who had have taken the time to prepare a Neighbourhood Plan, they could now directly request that an application was referred to the Planning Committee, if they were concerned that it was in conflict with their Neighbourhood Plan.
- 2.11.2 As part of West Lindsey’s continuing commitment to support Parishes in their planning role and to make engagement in our decision-making process as customer friendly as possible, the 2021/22 review advised that the Planning Department were in the process of preparing a pro-forma to assist any Parish Council who wished to make such a request
- 2.11.3 The form was successfully launched during 2022/23 and has been promoted through our Parish News Briefings at various points since its introduction in November 2022.
- 2.11.4 In previous reviews Members have been provided with data to demonstrate that the number of referrals made to Committee, has increased in recent years, with the improved customer focus which has been applied in this area following a change in management.
- 2.11.5 This matter has not arisen to the same degree as it did in previous reviews and therefore no such data has been included on this occasion.
- 2.11.6 The determination of Planning Applications will always be a cause of complaint, given their contentious nature.
- 2.11.7 It will never be feasible for all applications to be submitted to Committee simply because a Parish Council feels they should be. There will always be a requirement for objections to be related to material planning consideration, or to focus on why the application is against approved Policy
- 2.11.8 West Lindsey is committed to taking steps to counteract any negative perceptions which naturally exist around this function.

### **3. Proposed Amendments to the Constitution**

- 3.1 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.
- 3.2 This has resulted in several, mainly minor amendments having been made throughout the document, primarily to Parts IV and V and participation schemes.
- 3.3 Arising from the feedback received/issues identified the following sections set out the main proposed amendments for consideration along with the rationale for each where required
- 3.4 All additions/amendments from this review are set out in the concluding table of changes at 3.9 and are proposed to come into immediate effect following approval by Annual Council.
- 3.5 Planning Committee Public Participation Scheme (relating to applications)**
- 3.5.1 Council may recall that in the 2021/22 Review, considered by Members in May 2022 in was agreed to formalise **the ability to submit written submissions under the Planning Committee Participation Scheme, subject to meeting all other registration criteria of the scheme.**
- 3.5.2 This had been permitted and originally introduced during Covid arrangements. This addition had proved popular and does arguably make our scheme even easier to engage with, acknowledging the rurality of our District, however throughout the year concerns have been raised that there has been an overuse of this option and an unbalanced shift to more people taking up this offer than choosing to voice their concerns directly on the evening.
- 3.5.3 Now having a year’s experience of operating with this addition formally, it can be evidenced that written statements are often the same comments which have been submitted as written objections.

- 3.5.4 Noting that people already have the opportunity to provide written representations during the statutory consultation period (upon which Planning Officers are legally obliged to take into consideration).
- 3.5.5 The notion of presenting in person to the Committee is to allow people the chance to have their voice, literally, heard in addition to the formal written objections.
- 3.5.6 The consequence of reading out pre-prepared written statements on behalf of objectors is that it is emphasising a written comment made outside of the consultation period – which is regulated, and over those who have made their comments within the statutory period.
- 3.5.7 This move towards more statements being read out, is now considered to be unbalancing the wider consultation response.
- 3.5.8 Arguably West Lindsey's Scheme was already more accessible than others, as demonstrated in the last review. The benchmarking data provided previously is attached at Appendix 1
- 3.5.9 Acknowledging the need to balance accessibility and opportunity for engagement with safe' and 'sound' decision making and recognising the need for schemes to be in harmony with other statutory processes which feed into the legal framework of planning committee decisions, **it is recommended that the ability to submit written statements to be read aloud by Democratic Officers is removed.**
- 3.5.10 It is recognised that there is wider piece of work to look at introducing true hybrid options for public participation, which do not detract for the original intent to "have your voice heard" but that this needs to be an option considered across all of the schemes currently in place, rather than a quick fix introduced during emergency times, when options were more limited.

### **3.6 Public Participation at Committee Meetings Procedure**

- 3.6.1 Public Participation at Committee Meetings is something in general to be encouraged. Democracy should always encourage active participation, however on some limited occasions throughout the Civic Year, it has been at the root of discord within the Chamber, particularly when statements are not submitted in advance, which is currently allowed for by the Procedure.
- 3.6.2 There is also a concern that by not submitting questions in advance, opportunity is given to publicise mis-information with no opportunity for Officer rebuttal if needed.
- 3.6.3 Democratic Officers have spent time benchmarking our current scheme against a number of other Authorities in Lincolnshire and beyond, comparing such factors as: -
- Registration in advance
  - Time limit allowed for Speakers

- Right of Response? Any
- Submission of questions in advance

3.6.4 The analysis document is attached at Appendix 2 for completeness, and in noting its content arguably it would not be unreasonable to request registration in advance and to only allow questions with advance notice. This change would, again, arguably reduce accessibility and the allowing of “walk-ins” and questions without notice is not an uncommon practice.

3.6.5 As such a number of minimal revisions are proposed, detailed in the following sections, to offer clarity on how the scheme works in practice, to emphasise the benefit of advance notification, and a right of reply for Officers where misinformation is verbally reported through public participation, but it is not been recommended to move away from walk-ins and to only allow questions in advance.

3.6.6 Rule 9 Questions, Public Question Time at Council and Planning Committee Participation all make it clear that Members of the Chamber will not be permitted to debate “questions and statements”. **It is therefore recommended that the following be added** to the Committee Scheme (additions expressed in bold)

“Q - May I ask a supplementary question on the same topic after my first question has been answered?

A - Normally no, but the Chairman of the meeting may decide to let you speak again if time allows. **No other Members of the Committee will be permitted to speak or debate the content of the question or response.”**

3.6.7 Furthermore in the absence of requiring pre-registration or questions in advance, **it is recommended that the following be added** to safeguard against the publicisation of misinformation (additions expressed in bold)

Q Do I need to let anyone know that I want to speak at the start of a meeting?

A It is helpful if we have some advance notice. This will allow us to research the answer to your question. Please arrive at least five minutes before the meeting is due to start. **Questions in advance are recommended to ensure you get a full response at the meeting.**

If you do not give us advance notice of your question, it **will be very unlikely that the Committee can answer it** at the meeting itself. If this is the case, you will be advised that you will be sent a written reply, a copy of which will be sent to all the councillors at the meeting.

**Where your question was not submitted in advance, on hearing it at the meeting, the Chairman will give the lead**

**Officer opportunity to clarify to the meeting any part of your question which they consider to be mis- information.**

If it is not known at the time to be erroneous, a correction will be raised at the next meeting and added to the minutes of that meeting.

3.6.8 Ultimately managing Public Participation and Committee Members' interactions will require robust Chairmanship on occasions and the managing of participation schemes will feature in the revised Member Induction Programme for 2023.

3.6.9 The revised Public Participation at Committee Meetings Procedure with all proposed amendments clearly visible is presented at Appendix 3 for completeness

**3.7 Overview and Scrutiny Operating Methodology**

3.7.1 The Overview and Scrutiny Committee at their meeting on 28 March were given opportunity to consider and comment on their operating methodology.

3.7.2 As a result of those discussions, the Committee will be giving further consideration to the current limit set on 'pre-decision scrutiny' items. In the 2022 review of the Operating Methodology, this limit was reduced from four requests per municipal year, to two, for reasons of work plan management. The initial view arising from the March Committee meeting was that this number should be increased from two, to three or four, or, if the limit were to remain at two, an exemption be included to enable more than two requests per year if necessary.

3.7.3 It should be noted that the Overview and Scrutiny Committee currently have the ability to set their own Operating Methodology, with discussions, amendments and subsequent approval taking place at the first meeting of each civic year. Council is then informed of any such amendments through the Overview & Scrutiny Annual Report.

3.7.4 It is important that the Committee's Methodology (which is the responsibility of the Committee), reads in harmony with its Terms of Reference (responsibility of Council).

3.7.5 As such it is recommended that the limit on reviews referenced in the Committee's Terms of reference be removed, and such limits only be set through the review of the Methodology – thus avoiding a disconnect. The Methodology will also be added as an appendix to the Constitution, once it has been approved by the Committee, for transparency and given how it links to the Committee's Terms of Reference and provides the detail as to how each function will be approached. These revisions are summarised in the table at 3.9

3.7.6 Further consideration will be given during the next election cycle as to whether the current approval timetable is the most appropriate and



whether there should be a role for Full Council in signing off that methodology, as opposed to the current noting requirement. It is important to recognise that for the Committee to be at its most effective, it requires the ability to act independently from the Ruling Administration, but at the same time, the challenge provided by the Committee needs to be focussed around agreed corporate plan aims, objectives and priority work programmes.

### **3.8 Automatic Removal of Members from Working Groups for non-attendance.**

- 3.8.1 Through the course of the Review it was suggested that there should be an automatic mechanism to remove Members from Working Groups where they failed to attend on a regular basis, as this impacted the Group's effectiveness. The suggestion being after 3 months and a replacement should be found.
- 3.8.2 It would be difficult to create a blanket policy given that each Working Group meets at different frequencies, some not even meeting every 3 months.
- 3.8.3 Furthermore, whilst accepting that ad-hoc attendance can impede effectiveness, the law is very clear on how many meetings a Member must attend, such a rule could appear overbearing.
- 3.8.4 Finally all Working Group Memberships and changes are agreed and approved through the relevant parent committee, a 3-month rule could cause an unnecessary administrative burden.
- 3.8.5 However in recognition that consistency can play an important role in a Group's effectiveness, and given that the frequency of meetings differs from Group to Group, it is recommended the following be added to the template Terms of Reference for Working Groups, approved by Council last year if Members were minded too.

**“4.4 Where an Elected Member fails to attend 2 consecutive meetings of the Working Group without having given due reason for their absence or apologies, the Chairman of the Working Group will have the ability to write to the parent Committee to express concerns regarding an individual's behaviour.**

**Such concerns will be considered at the Parent Committee Chairs Briefing and it will be in the Chairman's Gift to determine whether a request is made to the parent Committee to revise the membership accordingly”**

**Where non attendance relates to the Chairman of a Working Group, the Working Group as a whole will have the same rights set out above.**

**Regular in-quoracy will be reported to the relevant Parent Committee Chairman's briefing.**

**3.8.6** In introducing such mechanisms for working Groups, it is suggested similar principles are applied to Committee attendance, and as such **it is recommended** that the following be added to Council Procedure Rules.

- New 8.3 Under Quorum

**Where a meeting of Council or Committee is inquorate the Chairman will immediately bring this to the attention of the Head of Paid Service, who will write to all Members reminding them of their responsibilities and duties.**

- New 25. 4 Under Attendance at Committees

**Notwithstanding the legal requirement to attend at least one committee meeting to which the member has been appointed to serve or substitute, in any one six month period, where an individual Member fails to attend a Committee to which they have been appointed on more than three occasion without due reason, it will be within the gift of the Committee Chairman to report this matter to the relevant Group Leader, or Head of Paid Service (if it relates to attendance by a Group Leader).**

**3.9 Table of All Proposed Changes**

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION			
Ref	Section/Ref	Amendment required	Reason for Amendment
	Part IV – responsibility for functions – Chief Executive page 33	Function 4 and 5 be amended by adding the following words to each “ <b>and to appoint deputies as required</b> ” so as to read  4. To be the Electoral Registration Officer <b>and to appoint deputies as required</b> 5. To be the Returning Officer for Local Government elections <b>and to appoint deputies as required</b>	Council were recently asked to appoint DEROs as the constitution was silent on the matter. This revision prevents administrative only matters from needing Council consideration. DRO can be appointed under different regulations but again it was considered opportune and transparent to include the amendment against both functions.
	Part V – Council Procedure Rules – Page para 4.3 substitutions	c) after their Group Leader/Spokesperson, Deputy Leader/Spokesperson, <b>Group/Deputy Whip (if applicable)</b> or a majority of members of the relevant Group has notified the Head of Paid Service in writing of the intended substitution before the commencement of the meeting.	In recognition and to reflect that some Groups will use a Whip for this function ) and notification from them would be deemed permissible. Groups Whips will be notified to the HPS Annually by way of proforma issued under regulation 10
	Part V – Council Procedure Rules – Page 6 para 9.6 Supplemental Questions and <b>NEW</b> para 9.7 Debate	Para 9.6 be amended as follows: - A <b>Only the</b> questioner will be allowed to ask one brief, relevant supplementary question after the reply to the original question. This is at the Chairman’s discretion. <b>NEW</b> Para 9.7  There will be no debate on hearing the response to questions under Rule.9 unless a motion to suspend the relevant procedure rule is moved and passed by the majority of members present and voting.	The previous reference  “ <u>A questioner will be allowed....</u> ” implied no other Councillor could speak or ask a question. This revision makes it clearer. The additional paragraph also sets out a democratic mechanism to enact a debate if the majority of members agree to suspend the relevant procedure rule.

	<p>Part V – Council Procedure Rules – Page para 1.3f) Annual Meeting and 5.1 time and place of meetings</p> <p><b>DELETION OF 5.1 2<sup>nd</sup> para</b></p>	<p>1.3 f) states that "At the annual meeting, the Council will - ... determine the normal commencement time for each Committee."</p> <p>Rule 5.1 states "The time and place of meetings will be determined by the Head of Paid Service notified in the summons. At the Annual Meeting of Council, each Committee will determine its normal commencement time."</p> <p>The following should be <b>deleted from 5.1</b></p> <p><b>At the Annual Meeting of Council, each Committee will determine its normal commencement time."</b></p>	<p>This is too statements contradict each Other. Members have been very clear they do not wish to hold mini meets at the end of Annual Council for this purpose – hence the amendment was made to 1.3f) the sub paragraph to rule 5.1 should have been deleted at that time.</p>
	<p>Part IV – responsibility for functions – Overview and Scrutiny Committee -page 16</p>	<p>Function 9 be amended by adding the following words "9. To maintain under review the arrangements for the performance monitoring of Council services; <b>and to receive and consider any improvement plans arising from undertaking this function"</b></p>	<p>This addition reflects the practice that was agreed as part of the new performance monitoring framework</p>
	<p>Part IV – Responsibility for Functions – O and S Committee – Page 16</p>	<p>The following words be <b>removed</b></p> <p>Function 2. ....reviews chosen by the Committee are limited to 1 per civic year</p> <p>Function 6...limited to 2 per civic year</p>	<p>These limits are set in the methodology which is the responsibility of O and S Committee , referencing the limits here often results in discord when the methodology is then reviewed</p>
	<p><b>NEW APPENDIX 15 – O and S Operating Methodology</b></p>	<p>Operating Methodology of the Overview and Scrutiny Committee – to be marked responsibility of Scrutiny</p>	<p>For transparency but to be clear the document is owned and updated by the O and S Committee</p>

	<b>Part V – Council Procedure Rules – Page 4 - New Rule 8.3</b>	Under Quorum  <b>Where a meeting of Council or Committee is inquorate the Chairman will immediately bring this to the attention of the Head of Paid Service, who will write to all Members reminding them of their responsibilities and duties.</b>	To reflect current practice
	<b>Part V – Council Procedure Rules – Page 15 - New Rule 24.4</b>	Under Attendance at Committees  Notwithstanding the legal requirement to attend at least one committee meeting to which the member has been appointed to serve or substitute, in any one six month period, where an individual Member fails to attend a Committee to which they have been appointed on more than three occasion without due reason, it will be within the gift of the Committee Chairman to report this matter to the relevant Group Leader, or Head of Paid Service (if it relates to attendance by a Group Leader).	To bring in line with actions for non-attendance at Working Groups introduced through this review.
	Part IV Page 54 – scheme of Corporate Delegations - 9.4 cancelling and reversal of debts	The Team Manger Column to be ticked	Previously agreed in 2021 review but not transposed.
	Part IV Page 55 9.5 write offs.	Additional note be added . Budget holders may write of debt up to the value of £250 where it is deemed irrecoverable debt	This is already included on page 107 of the financial regs having been agreed in the 2021 review. However, it is not crossed referenced and officers have reported finding it difficult to find this power, often diverting first to the corporate delegation scheme. Cross

			referencing will prevent such an issue in the future.
	Participation at Committees Scheme	As referenced at 3.6 above	
	Revision to Template Terms of Ref Appendix 14	As referenced at 3.8 above	

#### **4 In Year Changes to Contract and Procurement Procedure Rules and Financial Procedure Rules – To be Approved by Governance and Audit Committee**

4.1 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

#### **4.2 Financial Procedures Rules (FPRs)**

4.2.1 During 2022/23 only a small number of housekeeping style amendments are proposed to the Financial Procedure Rules. These relate to clarifying that the role of internal is outsourced and that it is independent to the Council. Part 1 Para 6.6 and Part 2 Para 5.8.2 namely.

4.2.2 There has also been a re-phrasing of Corporate /Service Delivery Plans to Executive / Business Plans to be reflect language currently recognised across the organisation throughout Part 2 of the Financial Regulations. Paragraphs within 3.4, 3.5, 3.8 and Appendix one effected.

4.2.3 Cash is no longer available from the Guildhall front desk and as such reference has been removed from 6.9.4

4.2.4 Finally thresholds for large scale projects have been amended to reflect those new thresholds contained in the CPRs (referenced below)

#### **4.3 Contract Procedure Rules (CPRs)**

4.3.1 Similarly only a small number of amendments are proposed to the Contract Procedure Rules, arising from the 2022/23 review.

4.3.2 References to Brexit and the precedent of European Law have been removed from the Introduction and Scope Section. References to EU Thresholds have been amended throughout the document to now refer to UK /FTS thresholds and all references to the EU, in general, have been removed, as have all references to OJEU procurement procedures; replaced by FTS.

4.3.3 Arising from the move away from EU regulations, thresholds for the largest scale procurements have been amended in Sections 7 and 8 and it has been clarified that contract price is inclusive of VAT.

4.3.5 Section 6.5 relating to State Aid has been removed and replaced with information relating to, and the requirements of, the New Subsidy Control Act 2023.

- 4.3.6 Sections 15, Contract Management, and 16, Contract Monitoring, have also had significant additional contextual information added.
- 4.3.7 The two sets of rules with all amendments clearly visible are presented at Appendix 4 and 5 for completeness
- 4.3.8 Governance and Audit Committee are asked to **APPROVE** the amendments to the Financial and Contract Procedure Rules. These will subsequently be noted by Full Council when considering the Annual Constitution Review report.

**5. In Year Amendments required as a result of changes to the Management Structure and pending review of a suite of HR policies.**

- 5.1 Members were advised that as result of the new Management Structure which had been approved for implementation post April 2022 the scheme of Officer Delegation. (Contained within Section 4 – Responsibility for Functions) would need amending.
- 5.2 Given this was a re-alignment of tasks, such amendments would be undertaken post implementation of the Structure, using the already approved delegation granted to the Monitoring Officer, in consultation with the Chairman of the Governance and Audit Committee.
- 5.3 This work was completed in August 2022 and a new version of the section was published in September 2022.
- 5.4 It is already anticipated that large suite of HR Policies are due for review during 23/24, this will impact on the Scheme of Corporate Delegation, set out on pages 48-60 of Part IV – Responsibility for Functions.
- 5.5 As such the granting of delegated authority is sought for the Monitoring Officer, in consultation with the Chairman of the Governance and Audit Committee, to amend the Scheme of Corporate Delegations, in required, on approval of HR policies by Corporate Policy and Resources Committee throughout 2023/24.

**6 Amendments considered but not put forward for inclusion**

- 6.1 As referred to in Section 1.8 above, on this occasion some amendments proposed throughout the review are not being proposed for progression.
- 6.2 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>
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Proposed Amendment	Source of Request	Rationale for Non-Inclusion
<p>To increase the threshold for forcing a recorded vote</p> <p>In order to prevent procedurally frustrating meetings.</p>	<p>Member of Public</p>	<p>For Full Council or Cttee to meet and transact business it only requires a quarter of its members to be present or 3, whichever is greater (this a model quota) so for example for full council that is 9 people.</p> <p>The threshold does need to remain relevant to the quorum and Members do need to be able to reasonably activate a right for a recorded vote. Higher thresholds are sometimes seen where the Full Council Membership is much larger than WLDC</p> <p>The Council has historically had the threshold as high as 3 but this was reduced following requests from Members. Increasing it too much could disadvantage smaller groups.</p> <p>On the whole, with the exception of one meeting which saw this suggestion put forward, the use of recorded votes has not hindered business and is a legitimate aspect of Council/Cttee decision making. It is considered the threshold remains appropriate.</p>
<p>To Make it Clear in Procedure Rules that microphones must be used during recorded votes</p> <p>It has been suggested the public watching can not always see / hear the votes being cast due to the microphone use</p>	<p>Member / Officer / Customer Informal complaint</p>	<p>It must be remembered that there no legal requirement for the Council to record, film, or live stream any of its meetings. The webcasting service is over and above statutory accessibility requirements – these being members of the public must be able to attend.</p> <p>The mandating of this in procedure rules does not seem the best place to address such a matter.</p> <p>This would be better addressed through training and by a change in practice. Configuration of the microphones (in order to work with a pre-programmed camera function) only allows any 2 mics to be active one of those being the Chairman. Currently the MO takes the roll call.</p> <p>If the Chairman of the meeting leads the roll call , the member recording their vote could activate their mic simultaneously with the Chairman. This is not the case when an officer takes the call. A change in practice would over come this situation.</p>
<p>Consider including the mechanism for how the position of Group Whip or Deputy Group Whip is notified to the Council (I.e. Officers) - probably by the Group Leader</p>	<p>Chairman of Governance and Audit Cttee</p>	<p>The Constitution is applicable to all. Group Whips do not exist in all Group structures. Group Whip is not a position recognised explicitly in other parts of the Constitution and therefore it is not considered relevant to add to the Constitution.</p> <p>However, a change in practice could see this accommodated. Following elections Groups are required to give Notice by Regulation to the HPS advising of the name of the Group, the Members of that Group and the Leader / Deputy of that Group.</p>

confirming in writing.		An additional section will be added to that proforma to capture such information should a Group operate such a system.
Requirement for alternative budget proposals to be submitted in advance	Several Members	<p>The need for the Council to set a balanced budget prior to the 10 March annually is a legal requirement.</p> <p>It is also acceptable and to be expected that alternative proposals may be put forward for consideration.</p> <p>Whilst it has been suggested any risk to that must be safeguarded, to date the Council has not found itself in position where it has been unable to fulfil this requirement. The S151 and HPS have been fully consulted on any potential to introduce additional requirements relating to alternative budgets and feel on balance such an introduction is not required at this stage. The Council will always put in place the required resources needed to manage any budget debate and amendments arising.</p>

## **7 Associated Work Planned to be undertaken during the 23/24 year and beyond**

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

### **7.2 Parish Charter**

7.2.1 As detailed in Section 2.1 of this report, given the limited progress which has been made since the Charter was introduced this will remain a watching brief item.

7.2.2 The Governance and Audit Committee have previously identified this as an area of work which may see the need arise to review our Constitution; ensuring it reflects all of the principles ultimately agreed within the Charter.

7.2.3 To ensure buy-in and a mutual commitment to the content of the Charter, the review and refresh of the Charter should be undertaken in consultation with Parish Councils. It is also important that any commitments made in the Charter are resourced and adhered to.

7.2.4 As such, a report will be submitted to Prosperous Communities Committee during quarter 3 of 2023/24. Setting out the review process, the key actions to be undertaken, and likely anticipated date for completion of this work.

- 7.2.5 Should there be any governance related work identified as a result this it will be reported through the Governance and Audit Committee during the subsequent years reviews and separately if required.

### **7.3 Member Development**

- 7.3.1 As we start the 2023/24 Civic Year with a new intake of Members, fresh from Induction, Member Development will focus on feedback received from that Induction and this will be used to build the remainder of the Year 1 Training Plan and the outline of the Year 2 Plan.
- 7.3.2 During Induction, feedback will be sought after each session, and at the conclusion of the programme, on training materials, presentation methods and the supporting handbook (Welcome Pack) as a whole.
- 7.3.3 The Member Development Group will be re-engaged, and the performance and appropriateness of the on-line training platform will continue to be monitored.
- 7.3.4 Further platforms may need to be investigated if the current Learning Pool catalogues are not considered to provide the necessary content; investment would likely be required for an alternative platform. This is highlighted in Business Service Plans.
- 7.3.5 The Library on Mod Gov will be renewed and promoted as source from which Members can re-visit training materials, and it will be hosted in an indexed manner.

### **7.4 Code of Conduct - Revisions to Operating Procedures, Complaint Form and Filters**

- 7.4.1 As indicated at Section 2.7 above, a change in personnel and a number of conflicting priorities has seen work to re-vamp the complaint form, review the operating procedure and introduce a published filtering system has been delayed.
- 7.4.2 It is hoped this work will be undertaken during 2023/24 but the timescales will be dependent on the Work Plan priorities of any newly appointed Monitoring Officer. Timely completion of this work does not cause detriment to Council.

### **7.5 Government Response to the Committee on Standards in Public Life's review of Local Government Ethical Standards**

- 7.5.1 Given there has been no active engagement from the Government during the 2022/23 Civic year, this item remains a "watching brief". As indicated in Section 2.8.6 the previous commitment remains.
- 7.5.2 The Monitoring Officer regularly attends National Conferences for the Sector and is a Member of the County Legal Group. As such the Council is well positioned to keep up-to date and act.

- 7.5.3 Such matters would be reported to Standards Sub-Committee and Governance and Audit Committee if relevant reports are required.

## **7.6 Community Governance Review**

- 7.6.1 Further to the information provided at Section 2.6, this work is anticipated to progress further during the 23/24 Civic Year, with a decision made as to how to progress. The timescales will be dependent on the Work Plan priorities of any newly appointed Monitoring Officer.

- 7.6.2 Community Governance reviews are a renewed commitment in the new Draft Corporate Plan.

- 7.6.3 In accordance with legislation, recommendations arising from a Governance Review, would not become effective until the next all-out elections in 2027.

## **7.7 Working Groups' Terms of Reference**

- 7.7.1 As indicated as Section 2.10, work will be undertaken to re-establish terms of reference where required using the approved template, taking reports through relevant Committees for decisions where required.

- 7.7.2 The timescales will be dependent on the Work Plan priorities of any newly appointed Monitoring Officer and a risk-based approach will need to be applied.

## **7.8 Review of Council Procedure Rules**

- 7.8.1 As stated at section 2.9, with it having become apparent during the year that the priority action could not be delivered before early March 2023, with agreement of the Chairman of the Governance and Audit, it was suggested this matter should be deferred for at least 18 months.

- 7.8.2 With a new intake of Councillors in May 2023 and the inclusion of Standing Order/ Rules of Debate training in the induction, new Councillors will first need to get to grips with current rules before they can effectively comment on their effectiveness.

- 7.8.3 As such the workshop style event previously outlined will be undertaken during 2024/25 Civic Year and arising outcomes reported through the 2024/25 review due in Annual Council in May 2025.

- 7.8.4 Any matters which have previously been raised and which were outlined in the Full 2021/22 Review will remain recorded and brought forward.

## **7.9 Need for more Comprehensive Review of the Constitution.**

- 7.9.1 As referenced within the introduction to this report during 2023/24 Officers will give consideration to whether a more comprehensive

review of the Constitution is required, noting the last time such work was undertaken. The outcome of this and any future planned work arising will be summarised during next year's annual review.

This concludes the 2022/23 Annual Review of the Constitution. The Following Sections of the Report make-up the Monitoring Officer's Annual Report.

## **MONITORING OFFICER'S ANNUAL REPORT**

### **8 Governance arrangements in place to manage Commercial and Economic Growth**

8.1 The Sections below provide updated positions, together with information on how the Council governs its business interests.

#### **8.2 West Lindsey Owned Companies**

8.2.1 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. In practice the shareholder role is carried out by way of formal reporting to the Corporate Policy and Resources 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	EF – Shareholder Representative		
SureStaff (Lincs) Ltd	06476932	Jan 2018	PD - Secretary		
Market Street Renewal Ltd	10298200	Jul 2016	SGS	Director	50/50 with DPL
			AM	Director	
			EF	Shareholder Representative	

Key: -

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

PD- Finance Manager

EF – Director of Corporate Services and S151

AS – Ady Selby - Director of Operational and Commercial Services

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

DPL – Dransfield Property Limited

8.2.3 The retirement of the Assistant Director for Finance, Business Support and Property Services has led to the re-appointment to the company secretary position in 2022/23, this has been incorporated into the job description of the Financial Services Manager

8.2.4 The Director of Corporate Services has been appointed to the role of shareholder representative for all companies.

8.2.5 Business plans were presented for all companies to Corporate Policy and Resources Committee during 2021/22 these are being updated and will be presented to Corporate Policy and Resources by the 30 September 2023.

8.2.6 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 2022/23

### **8.3 Development Agreements**

8.3.1 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.

8.3.2 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.

8.3.3 The Council currently has a number of development agreements in place, all have been procured and authorised according to our constitutional requirements.

### **8.4 Commercial Property Portfolio.**

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

8.4.2 The criteria included Lot size, Location, Asset quality, Tenant ease 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.

- 8.4.3 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.
- 8.4.4 The table below sets out the scoring criteria which is currently used to evaluate properties for the portfolio.

<b>Financial considerations</b>				
<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 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
<b>Property/Asset Considerations</b>				
<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:  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.  Industrial - located within close proximity to UK motorway network or transport hub (airport/port/rail links) or an established and successful industrial/manufacturing park.  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>				
<p><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 &amp; 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.</p>	Strong financial covenant	Good financial covenant	Limited financial covenant	Poor financial covenant/vacant
	5	3	1	0

<p><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.</p>	10yrs+	5yrs to 10yrs	Between 2yrs & <5yrs	Less than 2yrs/Vacant/Holding Over
	5	3	1	0
<p><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.</p>	Stepped rent/RPI or fixed uplifts	Open Market Rent (5 yearly)	Unusual review format (i.e. 14 yearly)	No RRs
	5	3	1	0
<p><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.</p>	Substantial Rental Growth Prospect	Some Rental Growth Prospect	Rack Rented/No Likely Change	Over rented (i.e. Passing Rent > Market Rent)
	5	3	1	0
<p><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).</p>	Full Repairing/fully S/C recoverable	Internal repairing - s/c recoverable by capped	Internal repairing - partially recoverable	Internal Repairing - non-recoverable/Landlord only
	5	3	1	0
<p><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.</p>	Fully let (100% let)	Part Let, Part Vacant (>70% & <100% let)	Mostly Vacant (50% - 70% let)	Predominantly vacant
	5	3	1	0

- 8.4.5 The Council has bought no additional investment properties during 2022/23.
- 8.4.6 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 and this will continue to be the reporting mechanism regarding these investments.
- 8.4.7 The policy relating to Commercial Investments is currently being reviewed to ensure it accords to the new CIPFA regs. This will be submitted to Corporate Policy and Resources Committee during Quarter 2 of the 2023/24 year.

**9. Introduction of The Subsidy Control Act and ensuring compliance.**

- 9.1 The Subsidy Control Act (2023) replaces the State Aid legal requirements following Brexit. The new Act is designed to continue to ensure that the public sector applies a 'level playing field' approach to all aspects of procurement and therefore does not give undue financial support to bidders.
- 9.2 As a result of the Act's introduction, the Council sought Legal advice to ensure it was adhering to all of the requirements the Act places on Local Authorities. Having reviewed the implications for key work streams, the Council has assurance it is complying with this new legislation. Officers shall continue to review each of our major projects on a case by case basis to ensure full compliance.

**10 Analysis Of The Number, Nature And Outcome Of Code of Conduct Complaints Received**

- 10.1 The sections below set out an updated position in respect of Member Code of Conduct complaints data for the civic year 2022/23 up to **March 2023, with data having last been reported to Annual Council in May 2022**
- 10.2 During 2022/23 10 complaints were received.
- 10.3 5 were in relation to Parish Councillors and 5 relate to District Councillors.
- 10.4 The nature of these complaints is summarised below:
  - Honesty 1 (District )
  - Leadership 3 (1 District, 2 Parish )
  - Bullying/ Harassment 1 (Parish Council)
  - Accountability 4 (2 District, 2 Parish)
  - Interests 1 (District)
- 10.5 The level of complaints had significantly increased during 20/21 with twice as many complaints received as the previous year with a similar trend reported in 21/22 (32 complaints in total)

- 10.6 This trend has not continued through 22/23 with, as stated above, only 10 complaints received this year. This is more in line with previous years (the exception being the Covid years).
- 10.7 Whilst we would normally receive more complaints about Parish Councillors as opposed to District Councillors, as is to be expected given the very high number of Parish Councillors compared to District Councillors, this trend has not been borne out during 2022/23. Whilst the level of complaints for the year remains low, it is usual to see more complaints about District Councillors in an all out election year.
- 10.8 The Council has issued no formal sanctions against Councillors, either Parish or District during 22/23 but we do regularly offer advice, guidance and words of warning.

## **11 Recent Appointments for Lay and Co-opted Members recommended by the Monitoring Officer for Council Approval**

### **11.1 Independent members of the Governance and Audit Committee**

11.1.1 Recruitment for up-to two Independent Members on the Governance and Audit Committee took place during March/April 2022. The vacancies were as a result of one fixed term for an existing member expiring, and a position which was not recruited to last May (2022).

11.1.2 A recruitment process was undertaken, generating only one application, that being from the retiring Member. Following a formal interview process, overseen by the Monitoring Officer and The Chairman of the Governance and Audit Committee, the position has been provisionally offered to Mr Andrew Morris, subject to formal approval by Council.

11.1.3 Council are asked to **approve that Mr Andrew Morris, be appointed as an Independent Member of the Council's Governance and Audit Committee for a period of Four years commencing Annual Council May 2023 and ceasing at the Annual Meeting of Council in May 2027.** Mr Andrew Morris will be required to sign and abide by the Code of Conduct for co-opted Members

11.1.4 The Governance and Audit Committee's Terms of Reference allow for the Committee to have up to 3 Independent Members. If Council accepts the Monitoring's Officer recommendation to appoint Mr Morris, the Committee will be able to operate with the two Independent Members, as it has throughout 2022/23.

11.1.5 Further consideration will be given as to whether the additional vacancy needs to be re-advertised and whether the Council may be able to approach its neighbouring Councils to see if Members serving elsewhere would be interested in apply for the role.

### **11.2 Remuneration Panel Member**

11.2.1 No vacancies have arisen on, nor have any terms of office expired during 2022/23 on the Remuneration Panel.

11.2.2 The next time a term of office which expires on this Panel is May 2024 so recruitment will be undertaken towards the end of the 2023/24 Civic Year.

### **11.3 Appointment of Independent Person (IP) for Code of Conduct issues**

11.3.1 No vacancies have arisen on, nor have any terms of office expired during 2022/23 for Code of Conduct IPs.

11.3.2 The next time a term of office which expires for an IP is May 2024 so recruitment will be undertaken towards the end of the 2022/23 Civic Year.

11.3.3 The Council is only required by statute to have one IP, but best practice recommends having two available. The Council currently has two appointed and would hope to continue to operate in that way.

## **12 Support to Parish Councils.**

12.1 The Monitoring Officer regularly supports Parishes on an informal basis throughout the year. As well as through powers in relation to the Code of Conduct, the Constitution also provides the Monitoring Officer 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)

12.2 There have been no such interventions in the year 2022/2023 to-date.

12.3 One Parish has needed support due to an issue in accessing its funds, due to signatory changes. The process can be a lengthy one if former post holders do not respond to or assist with bank requests. When this occurs, the District Council, following due diligence tests, will short term, "pay the bills of the Parish Council", continuing to allow them to function. There is written agreement that where monies remain un-paid at precepting time, any expenditure incurred will be deducted from the Precept request. On this occasion the banking situation was resolved and monies were returned in-year as agreed. Such support would be offered to any Parish where they can demonstrate they hold funds within their bank accounts.

12.4 The Council is strengthening its partnership and working more closely with the Lincolnshire Association of Local Councils. LALC continues to champion the adoption of the New Code Conduct.

- 12.5 The former Monitoring Officer attended and addressed the LALC Networking Day, something which it is hoped can be continued.
- 12.6 LALC's Chief Executive also attended recent Parish Councils Pre and Post Election Matters and Candidate Briefings, using the session to promote how Parish Councils could engage with communities to promote elections and the role of parish councillors.

### **13 Urgent Delegated Decision Making Process**

- 13.1 As anticipated in last year's report, use of urgent delegated decisions powers subsided from the start of 2022, as restrictions were lifted. The Cost of living crisis and related Government interventions have seen the need for urgent provisions to be still used during 2022/23. Use of the provision has not yet returned to pre-pandemic levels.
- 13.2 Members are notified of such decisions within 5 days of them having been made, they are also made available on the website for the public/press. <https://www.west-lindsey.gov.uk/my-council/decision-making-and-council-meetings/officer-decisions/>
- 13.3 The Chairmen of the Corporate Policy and Resources and Prosperous Communities Committees, are always consulted, as required by the Constitution.
- 13.4 The Head of Paid Service has continued with his informal commitment to extend the delegation limits to include the Leader of the Opposition, something first introduced during the Pandemic, and they continue to be afforded consultation rights on all urgent delegated decisions taken, attending when available.
- 13.5 The notification target has been met for all such decisions taken during 2022/23.

### **14 Regulation of Investigatory Powers (RIPA)**

- 14.1 The Human Rights Act 1998 requires the Council and organisations working on its behalf, pursuant to Article 8 of the European Convention, to respect the private and family life of a citizen, their home and their correspondence.
- 14.2 The Regulation of Investigatory Powers Act 2000 (RIPA) provides a statutory mechanism (i.e. 'in accordance with the law') for authorising covert surveillance, the use of a covert human intelligence source (CHIS) - e.g. undercover agents. It seeks to ensure that any interference with an individual's right under Article 8 of the European Convention is necessary and proportionate. In doing so, RIPA seeks to ensure that both the public interest and the human rights of individuals are suitably balanced.

- 14.3 West Lindsey, in common with all Local Authorities, is required to have arrangements in place to ensure that it abides by these regulations. This includes having an up-to-date Policy, carrying out training and keeping appropriate records. All requests to carry out surveillance have to go through an authorisation process, which includes approval by a magistrate.
- 14.4 Following a review of arrangements in January 2021, Members are advised annually of the number of surveillance requests which have been approved. It can be confirmed that during 2022/2023 no requests for the use of the Power were made.
- 14.5 A review of the RIPA policy was scheduled to be undertaken during 2022/23. This review has commenced with the Policy due for consideration and re-adoption at the first meeting of the Corporate Policy and Resources Committee in 2023/24 Civic Year.
- 14.6 Refresher training for authorised RIPA staff and Statutory Officers will take place in 2023/2024 following the refresh. Staff and Member RIPA awareness briefings are scheduled for 2024