



Full Council

28 June 2021

Subject: Annual Constitution Review 19/20 and 20/21 and Monitoring Officer's Annual Report covering the same period, as recommended by the Governance and Audit Committee

Report by:

Monitoring Officer

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Purpose / Summary:

The purpose of the report is to present the 19/20 and 20/21 Annual Review of the Constitution and arising recommendations as considered by the Governance and Audit Committee on 13 April and recommended for approval.

The report also includes an Annual Report from the Monitoring Officer for the period 19/20 and 20/21. The report aims to provide an holistic view of all governance associated matters.

RECOMMENDATION(S):

Council are asked to accept the recommendation from the Governance and Audit Committee and

- (1) note the outcome of the annual reviews detailed within this report;**
- (2) approve the 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;

- (3) agree that the proposed amendments, raised through the review process, but which are not being progressed, detailed at Section 2.8 are not included;**
- (4) approve the appointments of Mrs Alison Adams, Mr Peter Walton, and Mr Andrew Middleton (Section 9);**
- (5) Note:**
 - the progress made with regards to the areas of work agreed for further development in the previous reviews (Section 5);**
 - the further planned work for 2021/22 (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);**
 - the use of the Council's RIPA powers during the period (section 13).**
 - the update financial and contract procedure rules as approved by the Governance and Audit Committee in April 2021 shown at Appendix 3 and 4**
- (6) acknowledge the interim decision making process(es) that have been in place during the COVID -19 Pandemic.**

IMPLICATIONS

Legal:

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

Financial : FIN 49/22/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 As part of the last Annual Review considered by Council in May 2019, 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

1.6 Section 5 of the report provides a brief update of the work which was undertaken and the arising outcomes over the 2 year period. 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.

- 1.7 Section 6 details associated work planned to be undertaken during the 2021/22 civic year.
- 1.8 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, during the two year period.
- 1.9 Section 9 of the report asks Council to make appointments to a number of positions including vacancies on the Remuneration Panel, Governance and Audit Committee and an IP to assist the MO in dealing with complaints.
- 1.10 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.
- 1.11 Section 13 is a new addition and provides information in respect of the Council's Regulation of Investigatory Powers (RIPA) . This information has been included following a recent review of arrangements, with one of the Inspector's recommendations being that Members should receive at least annually the number of times the Council has used it powers.
- 1.12 Sections 7 – 13 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 1 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.

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	REMOVE 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	AMEND current function No.9 by ADDING 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 rd parties.
*	Part IV (Terms of Reference O and S Committee) – page 17	REMOVE 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 rd parties.
*	Part IV (Terms of Reference O and S Committee) – page 17	ADD 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 rd parties. Methodology to be amended to align
*	Part IV (Terms of Reference O and S Committee) – page 17	REMOVE the words “relate to the Forward Plan” and ADD 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 rd 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

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION			
Ref	Section /Page Ref*	Amendment required	Reason for Amendment
	Appendices – Appendix 15 Petition Scheme	AMEND in line with Appendix 5.	Clarity. The thresholds have not been amended but are now in a much clearer format to understand.
	Part IV (Council Procedure Rules) Page 12	ADD 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 ADDED to para 23.1. “Attendance at such training will be monitored and Group Leaders will use the attendance stats in determining 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 ADDED 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 V (Rules of Procedure – Council	The following footnote be ADDED 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.

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION			
Ref	Section /Page Ref*	Amendment required	Reason for Amendment
	Procedure Rules) - Page 1		
	Part II – Article 2 (Elected Members) Page 5	The following sentence be ADDED to paragraph 2.7 – Conduct. “The Council has also adopted the International Holocaust Remembrance Alliance (IHRA) definition of Anti-Semitism, 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 ADDED “The Council has also adopted the International Holocaust Remembrance Alliance (IHRA) definition of Anti-Semitism, 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 REMOVED 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 considered essential for the Constitution document.
	Part 6 (Members Allowance Scheme) Page 11	ADD 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	REMOVE paragraphs 16 and 17 as they are a repeat of paragraphs 13 and 14	Housekeeping

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION			
Ref	Section /Page Ref*	Amendment required	Reason for Amendment
	Part IV (Responsibility for Functions – Rem Panel Terms of Reference	The first bullet point note be AMENDED 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 IV (Responsibility for Functions – S151 page 36)	NEW function be added “ To make purchases in accordance and within the limits of the Council’s Commercial Investment Strategy	This delegation was agreed back in 2016 but has not been cross referenced in the Constitution.
	Part IV (Responsibility for Functions – G and A Committee page 9)	AMEND current function (c) 4 - approving payments.... The following be ADDED “ above £2,500 “ “Compensation Payments in general are delegated to Officers”	Officers have some level of delegation regarding compensation payments as detailed in the Corporate Scheme of Delegation . This note is to clarify that it is only is a function of G and A Cttee when it relates to the LGO and that smaller payments can be made without approval as previously agreed by the Governance and Audit Committee.
	Part IV (Responsibility for Functions – Scheme of Corporate Delegation page 53)	The Note be AMENDED as follows” Compensation arising from LGO Complaints totalling less than £2,500 can be approved by the S151 Officer and must be reported to G and A for information.	Ensures the scheme of corporate delegation and the committee’s terms of reference stay in line. G and A Committee have previously agreed this threshold
	Part IV (Responsibility for Functions – Monitoring Officer page 37)	NEW FUNCTION NO.3 be added as follows “ to source appropriate Independent Resource to undertake the function of IP in accordance with the Localism Act , in consultation with the Chairman of the Governance and Audit Committee, when a vacancy arises suddenly,	Councils are recommended to have 2 IPS to undertake the functions as set in Localism Act (relating to Code of Conduct Complaints). When an IP resigns there is a period where it is difficult to function with only one IP and recruitment can take

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Ref	Section /Page Ref*	Amendment required	Reason for Amendment
		until such time as a formal appointment is made” Limits on delegation temporary for 9 months	time. This delegation will allow the MO (in consultation) to seek resources from a pool or shared service arrangement in the interim period. The delegation is being suggested as temporary whilst consideration is given to whether the recruitment procedure needs amending.
	Part V (Rules of Procedure- Council Procedure Rules)	Paragraph 9.1 (c) be AMENDED as follows “a question on any matter in relation to which the Council has powers or duties, or in the case of Motions, affects the District.	Questions to Council take the form of a question followed by an answer – the effect the District’s element when applied to a question, results in almost any question being accepted, however answering them without proposing action can be difficult. Matters which affect the District should be dealt with by Motions.
	Part V (Rules of Procedure- Council Procedure Rules)	Paragraph 9.4 (a) be AMENDED to include the words or” in the case of a motion affects the District	This amendment brings in line the paragraph to reflect the change above.
	Part V (Rules of Procedure- Council Procedure Rules)	Paragraph 9.4 – Rejection of Questions – new grounds be added as follows: - “(h) the question names an individual member or Group” and (i) the use of Council resources for such a matter is questionable”	Both of these requirements already stand, however they not all included in one consolidated place – this amendment brings clarity
	Part V (Rules of Procedure- Council Procedure Rules)	Paragraph 9.1 (c) has a link to the Public Question Time at Council Meeting. This leaflet to be updated to include the same criteria applied to Councillors at 9.4	Through operation of the scheme this year it has become apparent that the requirements for Members of council and the public are slightly out of kilter, for example members of the public could currently ask questions about individual

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION			
Ref	Section /Page Ref*	Amendment required	Reason for Amendment
			Members. This amendment brings clarity and ensures the two schemes are on a par.
	Part IV Responsibility for Functions – Scheme of Corporate Delegation (page 48)	The Assistant Director Column be ticked for function 1.5 – “carry out consultation with the workforce trade union for changes in work practices etc	This function will be undertaken by Ads who have full responsibility for staff within their service.
	Part IV Responsibility for Functions – Scheme of Corporate Delegation (page 52)	The sub note in 7.4 be amended to read this delegation only applies when directors of Ads are carrying out the role of “ Strategic and Tactical Commanders ” as opposed to Strategic Commander as currently stated.	Better reflects the role being undertaken by Ads
	Part IV Responsibility for Functions – AD for Commercial and Operational Services (page 40)	NEW function 8 be added – “to alter the approved fees and charges at the Crem for a limited period of time taking into account circumstances at any given time (following consultation with the Chief Finance Officer)”	The AD has similar delegation for both markets and the TAC allows some flexibility to deal with changing circumstances more rapidly – no new fees can be approved through this delegation.
	Part IV Responsibility for Functions –All Management Team General Delegations - (page 28)	The following legislation be added to list displayed at 17: - <ul style="list-style-type: none"> • Localism Act 2011 • The Assets of Community Value (England) Regulations 2012 	These two bits of legislation cover various statutory functions and decision making we have to undertake for community rights and neighbourhood planning – and should be included for completeness.
	Part IV – Responsibility for Functions – Director of Corporate Services – (page 38)	Functions 7 and 8 – relating to ERO and RO be moved to the Chief Executive	Agreed by Council in March due to current post holder leaving.
	Part IV Responsibility for Functions – Scheme of	The CFO be ticked for function 10.3 – “allowing exemptions to Contract Procedure Rules “	Should be a function of the Chief Finance Officer as well as C Exec

TABLE OF PROPOSED AMENDMENTS FOR INCLUSION			
Ref	Section /Page Ref*	Amendment required	Reason for Amendment
	Corporate Delegation (page 55)		
	Part IV Responsibility for Functions – Scheme of Corporate Delegation (page 59)	Function 16.4 – determining and responding to request under GDPR and DPA – All Officer columns need to be ticked and the note needs to read following advice from the DPO	Historic Drafting error
	Part IV Responsibility for Functions – Planning Committee Delegation (page 12)	REMOVE bullet “conservation area consents”	Conservation Area Consents” no longer exist, so can be deleted – only <i>planning permission</i> is now required to demolish a building in a conservation area.
	Part IV Responsibility for Functions- AD Planning and Regeneration (page 42)	REMOVE “conservation area consents” from delegation 1 and REPLACE with “demolition in conservation areas”	As above

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 last two year's 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 in 19/20 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 A previous review 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 has become an absolute necessity whilst meeting virtually .**

Change required	Reason for Change
Removal of the wording 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 it was intended that the scheme as a whole, including the timings applied would be revisited during 20/21. Unfortunately this work has not progressed. This matter is therefore referenced in Section 6 (Associated Work Planned to be undertaken during the 21/22 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 sessions were cancelled. However given the need for this training and the likelihood that restrictions will remain to some degree this work schedule will re-commence during 2021/22 with a total of 7 sessions planned as follows.
- 21 April
 - 2 June
 - 28 July
 - 29 September
 - 24 November
 - 9 February 2022
 - 23 March

2.7 Amendments to Scheme of Delegation to Support Parishes

- 2.7.1 Having met with the Senior Planning Officers in February 2020 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, with a Neighbourhood Plan 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 during 19/20 and 20/21, when compared to 18/19 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. During 20/21 the Planning Committee considered 45 applications across 11 meetings. Of these 27 had Parish Council objections / representations against them

2.7.9 On average, in 2019/20 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.)

TABLE 1

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

3 rd April 2019	138971 (Blyton); 136577 (Gainsborough); 138477 (Grasby),	5	3
TOTAL		33	18

TABLE 2

On average, in 20/21 there were 2.45 applications per meeting with Parish Council representations (see table below)

April 2020-March 2021			
Committee Date	Applications with Parish Council objections	Total No. of apps	No, of apps with PC objections
1st April 2020	Meeting cancelled	n/a	n/a
29th April 2020	139532 (Langworth); 140375 (Sturton by Stow); 140513 (Osgodby)	6	3
27th May 2020	Meeting cancelled	n/a	n/a
17th June 2020	140416 (Hemswell); 140545 (Scotton)	4	2
22nd July 2020	140851 (Gainsborough); 140707 (Tealby); 140986 (Blyton Carr)	5	3
24th August 2020	140938 (Nettleham); 141032 (Nettleham); 140754 (North Owersby); 141128 (Hemswell); 139840 (Lea)	5	5
16th September 2020	141174 (Glentworth)	1	1
14th October 2020	141263 (Saxilby); 141442 (Tealby); 141429 (Grasby); 141348 (Welton)	6	4
11th November 2020	n/a	3	0
9th December 2020	141447 (Sturton by Stow); 141637 (Scotton)	7	2
6th January 2021	141017 (Gainsborough)	2	1
3rd February 2021	141033 (Bardney); 142065 (Nettleham); 142148 (Sudbrooke)	3	3

3rd March 2021	141128 (Hemswell); 140156 (Dunholme); 141907 (Waddingham)	3	3
TOTAL		45	27

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.)

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

2 nd May 2018	137326 (Burton); 135868 (North Kelsey); 137057 (Cherry Willingham)	4	3
4 th April 2018	137326 (Burton)	3	1
TOTAL		37	18

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.

2.7.15 It is also worthy of note the improved customer focus which has been applied in this area following a change in management. This alongside the proposed training package, referred to above, is hoped will begin to counteract any negative perceptions which currently exist.

2.7.16 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. By sharing our training with Parishes and ensuring some sessions focus on just this matter it is hoped Parishes will feel better informed as to how they can influence decisions.

2.8 Dealing with Questions and Motions

2.8.1 Through the course of the 20/21 Year whilst dealing with both Questions/Motions from Councillors and the Public it has become apparent that the criteria for acceptance at times can be cumbersome. Furthermore, there are exemptions applied to Councillors, which are not repeated in the Public Scheme. A number of suggestions have been made in the Table at 2.5 to rectify this situation.

2.8.2 The suggested amendments, it is hoped, also support differentiating between questions and motions. A question should be put and answered and should not lead to direct separate action. Motions on the other hand should seek the Council to take action.

2.9 Amendments considered but not put forward for inclusion

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

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

TABLE OF PROPOSED AMENDMENTS NOT TO BE INCLUDED		
Proposed Amendment	Source of Request	Rationale for Non Inclusion
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. As an alternative it will be made clear through communications etc. that there is an expectation of attendance by the Parish Councils should they request a call-in.
Adoption of a Parental Leave policy for Elected Members	Motion to Council on 4 November	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. Therefore no separate policy for a specific leave reason is considered necessary
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 would 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.
- 3.2 The Governance and Audit Committee approved amended Contract and Procurement Procedure (CPR) Rules and Financial Procedure Rules (FPR) at their meeting on 13 April 2021 which can viewed here <https://democracy.west-lindsey.gov.uk/documents/s24046/Annual%20Constitution%20Review%20and%20Monitoring%20Officer%20Report.pdf>
Full rationale for any amendments made was also included within that report.
- 3.3 These must then be reported up to Full Council, for noting, as Part of the Annual Review and are presented at Appendix 3 and 4.

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

- 4.1 The Chief Executive in consultation with the Chairman of the Governance and Audit Committee was granted delegated Authority to confirm the final version of the scheme of delegation in June 2020, prior to it being presented to Council for Approval.
- 4.2 This work was completed in December 2020 and reported to Council in January 2021. The report can viewed here:

<https://democracy.west-lindsey.gov.uk/documents/s22830/Revised%20Scheme%20of%20Offic>

[er%20Delegation%20following%20completion%20of%20Senior%20Management%20Re-Structure.pdf](#)

Since then, Council will be aware that the former Director of Corporate Services has left the organisation and a New Assistant Director for People and Democratic Services has been appointed.

- 4.3 As a result, delegations previously assigned to the former Director will need to be re-aligned; some to the new Director others to existing Officers. 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 **Due to the these changes not being “transformational” in nature, rather a re-alignment of duties they have not been listed within this report, but will be applied in the next published version of the Constitution.** The Monitoring Officer does have delegated authority to make housekeeping amendments of this nature.

5 Progress made with regards to those areas of work agreed for further development in the previous reviews

- 5.1 As detailed at Section 1.6 and 1.7 of the report as part of the last Annual Review undertaken 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 was achieved during 2019 /20 and if relevant in 2020/21 also
- 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 were several matters brought to the attention of the Monitoring Officer regarding the functioning of this Committee during 19/20, 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 the 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 3rd 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.
- 5.10 The View of the Governance and Audit Committee at the conclusion of 19/20 was that the role and functioning of the Committee continued to require refinement as supported by the Peer Review findings.
- 5.11 However, given the impact of the global pandemic leading to the Committee being cancelled between March and October 2020, there has been little opportunity to assess whether the Committee's functioning has improved. Although the effectiveness of committee survey responses were more positive.
- 5.12 The Operating methodology for 2020/21 was 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.
- 5.13 The O and S Committee have been making greater use of informal workshops and tasking groups. The annual report for 2020/21 can be viewed [here](#)

<https://democracy.west-lindsey.gov.uk/documents/s23833/OS%20draft%20annual%20report%202019-20%20and%202020-21.pdf>

5.3.10 The role of the O and S Committee, given the further changes being proposed by this report, its limited operation during 20/21, and its revised approach which is in its infancy will remain a focus of attention for 2021/22 – 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 The concurrent committee approach has been used for the decision around a viable housing solution and the Council's Climate and Sustainability Policy.

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, was 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 –

- 5.6.2 It had been anticipated that on-line training would be in addition to ongoing face-to-face sessions, dependant on the subject matter.
- 5.6.3 Understandably, due to the global pandemic, national lockdown and the 'new normal' of working from home (with meetings of people being prohibited), Member Development was largely frozen in 2020/21 with the view to resuming with renewed vigour once the national picture was more settled.
- 5.6.4 As it became obvious that restrictions would remain in place for a longer period of time than originally anticipated, Officers committed to sourcing virtual opportunities for Members, with previously cancelled sessions being rescheduled as online sessions.
- 5.6.5 Development opportunities through the year have been primarily focussed on identified areas from Members, with bespoke sessions provided through the LGiU for Local Government Finance as well as Charing Skills in a virtual setting.
- 5.6.6 The library on modern.gov has been updated with all session information since May 2019 and this will continue to be the main access point for presentations after each session. The Members' Bulletin has been used to emphasise these opportunities and will continue to be used for that purpose.
- 5.6.7 In June 2020 the By-Election Induction Programme template was approved for future use, meaning the Council now has a full plan in place to ensure any new Councillors joining through a by-election receive the same level of induction and support as those who join through all-out elections. This is a positive step as it had previously been identified as a weakness by new and existing Councillors alike.
- 5.6.8 This had been identified as a work stream for the Member Development Group and has now been successfully completed. Whilst the initial roll out of Learning Pool has been delayed, Officers remain committed to extending these options to Members.
- 5.6.9 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](#).
- 5.6.10 Given the world of all sessions currently being provided online Member Development will continue to be a focus in the 2021/22 civic year. Further information is contained in Section 6 below.

5.7 Members ICT

- 5.7.1 Following the elections in May 2019, 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.

5.7.9 Given the increased usage we have expected from Members whilst working remotely there is a commitment to review the devices currently in operation to ensure they remain fit for purpose. Further information is contained in Section 6

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.

5.9 Parish Charter

5.9.1 During 2019/20 the Parish Charter was both consulted on and formally adopted. However since its adoption , many of the activities contained within it have been delayed. There has been little promotion and no events held primarily due the Covid Pandemic, limitations on activities and resources available given the involvement of communities team in supporting pandemic activities. There is a commitment regardless of circumstances to re-invigorate this work once more. Officers will be reporting annually to Prosperous Communities Committee on progress.

5.9.2 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 – this will remain a watch in brief item as detailed at Section 6 of this report .

5.10 Work on 4th tier governance review

5.10.1 Work in this area has been limited and to date the main focus has been around scoping of the work to understand the desired outcomes and to be clear about expectations. This will remain on the Governance and Audit Committee’s associated work task list detailed in Section 6.

5.11 Virtual Arrangements

5.11.1 Through the early part of 2020/21 the Democratic Services Team developed, embedded and trained Members on new meeting procedures, and the technology needed to facilitate virtual meetings. Members have embraced the new ways of working. Even in the absence of regulation, virtual working, to some degree, will remain. This will remain on the Governance and Audit Committee’s associated work task list detailed in Section 6

6 Associated Work Planned to be undertaken during the 21/22 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 In the interim the restrictions on membership will be removed (if supported as detailed in section 2) and minor amendments to the terms of reference are proposed to support the O and S Committee to fully fulfil its role and to increase the emphasis on engagement with 3rd parties.
- 6.2.3 The Committee has further revised its methodology and has been making greater use of informal workshops and tasking groups.
- 6.2.4 The Committee have advised its focus for the 2021/22 Civic Year is for the Overview and Scrutiny Committee to return to 'business as usual' with a full work plan of outside agencies, ongoing working groups and performance reviews referred from the two policy committees.
- 6.2.5 Given the further changes being proposed by this report, its limited operation during 20/21, and its revised approach which is in its infancy the O and S Committee will remain a focus of attention. Any recommendations arising from the monitoring of the Committee's effectiveness will be made as part of the Annual Review for 2021/22, and would become effective from Annual Council May 2022.

6.3 Parish Charter

- 6.3.1 Given work in this area has not progressed accordingly and having previously been recognised by the Governance and Audit Committee 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. Development of the Charter and its impact will remain a watch in brief item for the Governance and Audit Committee
- 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 2021/22.

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 Consultation on the draft code was due to close on 25 April 2020 and was expected to be considered by the LGA Board in early June but was suspended in May 2020.

- 6.4.3 The Council, through its Standards Sub-Committee have continued lobbying on the recommendations made by the CoSPL, responded to consultations regarding the development of a new Code and attended events.
- 6.4.4 The LGA finally launched its new Code in February 2021. Supporting Guidance notes are being developed and should be made available to Local Authorities in early April.
- 6.4.5 If it is considered appropriate to do so, and of benefit to the Authority proposals may be brought forward during 2021/ 2022 to adopt the new model code introduced by the LGA.
- 6.4.6 The Standards Committee will be considering this this matter further in July 2021 and will receive a proposed work programme around promotion, engagement and adoption of the new Code. The aspiration being to encourage all Parishes to have adopted the new Model Code of Conduct by May 2022.

6.5 Member Development

- 6.5.1 The Member Development Group through its annual report presented at G&A Committee set its priorities for the coming year and beyond.
- 6.5.2 At the time of writing this report all training sessions remain on-line and are expected to at least in the short to medium term.
- 6.5.3 The biennial mandatory training, as specified in the Constitution, will be programmed for 21/22 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 the introduction of on-line self learning has been limited.
- 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.
- 6.5.6 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.
- 6.5.7 The attendance and impact of the training provided to both Parish Councils and Elected Members will be monitored and assessed and used to inform future training offered.

6.6 Virtual meetings / IT Support

- 6.6.1 Whilst the regulations will expire on 7 May, mandating a return to the Chamber for formal meetings, remote working has undoubtedly brought about benefits which should be built in to future arrangements. Training attendance appears to have improved and Members' engagement at workshops has also seen an increase. On-line working has resulted in a significant savings in Member travel costs and had made sessions more accessible.
- 6.6.2 During 21/22 the Democratic Team will review the pros and cons of remote working for Members and establish an agreed set of meetings that should be considered for facilitating remotely on a permanent basis going forward.
- 6.6.3 Alongside this work there may be a need to review IT devices provided to Members to ensure they remain fit for purpose, given the extended remit of use now expected.

6.7 Work on 4th tier governance review

- 6.7.1 Further to the information provided at Section 5, this work is anticipated to progress further during the 21/22 Civic Year subject to capacity with a new set of the Lead Officers having recently left the organisation.

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 It had been hoped this work could be undertaken during 20/21 but given the unusual way the Committees have been operating, and in light of procedures having to be naturally adapted throughout this period, the fundamental review planned did not occur.
- 6.8.4 A fuller review will be undertaken during 21/22 and any arising amendments will be reported through the 21/22 Constitution Review.

6.9 Review of Working Groups

- 6.9.1 It has become apparent throughout the year that the Council has a number of working groups, boards, task and finish groups established however a number of these do not appear to have clear terms of reference or clear reporting lines and mechanisms

6.9.2 During 2021/22 the Democratic Services Team will conduct a review to ensure each such group has an approved terms of reference, and develop a template terms of reference to be used in future, ensuring key factors are considered at the outset of establishing such Groups.

6.9.3 Any arising recommendations will be reported to the Governance and Audit Committee and through the Annual Review 21/22.

6.10 Review of Council Procedure Rules

6.10.1 Concerns have been raised that Council procedure rules are either (a) not fit for purpose or (b) not understood and adhered to by Members.

6.10.2 It is intended to hold a workshop style event during 2021/22 to serve as both an opportunity for Members to review and amend the rules if necessary, but also as a training opportunity so Members can fully understand what is expected during the rules of debate.

6.11 Members' Forum and Informal Engagement

6.11.1 The Members' Forum has recently been re-established by the Deputy Leader. This is an informal discussion environment where Members can generate ideas. The impact of the Forum on formal governance arrangements will be kept under review.

6.11.2 The Council have committed to wider Member engagement in Budget Setting and again the impact of this first event will be monitored closely and formalised if considered necessary

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

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

7.2 West Lindsey Owned Companies

7.2.1 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. 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 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	ER – 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 – Assistant Director, Finance, Business Support and Property Services (S151)

ER – Emma Redwood Interim Assistant Director of People and Democratic Services

AS – Ady Selby - Assistant Director of Operational and Commercial Services

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

DPL – Dransfield Property Limited

- 7.4.2 During 2020/21 The SureStaff and Market Street Renewal Ltd companies 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 has been a change agreed to the West Lindsey representatives for the companies. Alan Robinson has been replaced by Emma Redwood as the Council's shareholder representative and she will present Business Plans and other reports that are necessary to the Corporate Policy and Resources Committee.
- 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.

7.6 Commercial Property Portfolio.

7.6.1 At the Corporate Policy and Resources Committee on 13th April 2017 Members agreed a criteria for investment in commercial properties.

7.6.2 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.

7.6.3 The criteria was revised at the meeting of the Corporate Policy and Resources on 10th May 2018 to increase the purchase price range to £10 million. This was to enable the portfolio to be balanced and to take advantage of a gap in the market for lots between £5 million and £10 million.

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

Financial considerations				
<p>Lot Size (Capital Value) - 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>Rate of Return (Net Yield)* - 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>Lot Size (Annual Rental Income) - 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>Sector - 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>Location Quality - 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>Located Proximity to WLDC - 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>Tenure - 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>Building Condition - 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
Security of Income/Leasing				

Covenant Strength - 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.	Strong financial covenant	Good financial covenant	Limited financial covenant	Poor financial covenant/vacant
	5	3	1	0
Unexpired Lease length - 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.	10yrs+	5yrs to 10yrs	Between 2yrs & <5yrs	Less than 2yrs/Vacant/Holding Over
	5	3	1	0
Rent Review - 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.	Stepped rent/RPI or fixed uplifts	Open Market Rent (5 yearly)	Unusual review format (i.e. 14 yearly)	No RRs
	5	3	1	0
Rental Growth Prospects - 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.	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
Repairing terms - 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).	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
Occupancy rate - 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.	Fully let (100% let)	Part Let, Part Vacant (>70% & <100% let)	Mostly Vacant (50% - 70% let)	Predominantly vacant
	5	3	1	0

7.6.5 No additional investment properties have been purchased during the year in question

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 24 November 2020 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 – 2020/21 (to-date – which was October 2020)

8.2 The full report can be viewed at: <https://democracy.west-lindsey.gov.uk/documents/s22019/number%20nature%20and%20outcome%20of%20complaints%2020-21%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 20/21 civic year up to **February 2021**.

8.4 During 2020/21 there have now been a total of 31 complaints. (2 withdrawn as cllr resigned)

8.4.1 25 relate to Parish Councillors and 6 relate to District Councillors.

8.4.2 The nature of these complaints is summarised below:

- Respect 6 (Parish Council)
- Honesty 2 (Parish Council)
- Leadership 6 (Parish Council)
- Bullying/ Harrass 5 (Parish Council)
- Accountability 10 (District Council 6 Parish Council (4))

8.4.3 The level of complaints has significantly increased during 20/21 with us having received, as at February 2021, twice as many complaints as the previous year.

8.4.5 complaints are up across all sectors, since lockdown. Councillors particularly, Parish Councils have been much more accessible to the Public, due to the virtual regulations and their behaviour and operation scrutinised to a greater degree than usual.

8.4.4 We continue to receive more complaints about Parish Councillors as opposed to District Councillors, but this is to be expected given the number of parish councillors as opposed to District Councillors .

8.4.3 The Council has in the two year period issued sanctions against 2 of its District Councillors and a Parish Councillor.

8.4.4 The Standards Sub-Committee will receive its next data analysis report of the number, nature and outcome of complaints at its meeting in July 2021.

9 Recent Appointments made by the Monitoring Officer

9.1 Independent members of the Governance and Audit Committee

9.1.1 Recruitment for two posts on the Governance and Audit Committee took place on 23rd March 2021. The vacancies were as a result of the end of fixed terms of the existing members. Following a recruitment process carried out by a panel of the Chair of the Governance and Audit Committee, the Monitoring Officer and the Deputy Monitoring Officer, two new independent members are recommended for appointment. These are:

Mrs Alison Adams – for a period 4 years commencing Annual Council 2021

Mr Peter Walton – for a 1 year period commencing Annual Council 2021

9.1.2 **Council are asked to ratify these appointments and formally appoint Mrs Adams and Mr Walton as non-voting members on the Governance and Audit Committee, until Annual Council May 2025 and May 2022 respectively**

9.2 Appointment of Independent Person for Code of Conduct issues

9.2.1 West Lindsey has two independent people who support the Monitoring Officer on Code of Conduct matters. One of these has tendered their resignation with effect from 31st March 2021. It is best practice to have two independent people at all times to ensure that conflicts of interest are minimised. The Monitoring Officer has approached Andrew Middleton who is currently an independent person for Bassetlaw District Council to act as an interim Independent person for a period of 6 months so that a full recruitment process can be carried out.

9.3.2 **Council are recommended to appoint Mr Andrew Middleton as Independent person for a period of up to six months.**

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 appointments 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 There have been no such interventions in the year 2020/2021.

12 Interim Decision Making Process during COVID 19 outbreak.

- 12.1 In March 2020 the COVID 19 outbreak led 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.
- 12.3 The Governance has been tested by the emergency and the Constitution has enabled all necessary action to be taken without making any changes.
- 12.4 The Head of Paid Service did commit to extend the above delegation to include the Leader of the Opposition and this has been the case since the start of the Pandemic.

- 12.5 As of 4 April 2020, Regulations permitting remote or virtual meetings became effective and the Authority reviewed its previous decision to suspend all meetings.
- 12.6 A revised Committee timetable was agreed and a managing virtual meetings procedure was developed.
- 12.7 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>)
- 12.8 The Authority has been able to maintain public participation and has not needed to reduce committee membership to quorum levels.
- 12.9 The regulations which support virtual committee meetings, cease to become effective on 7 May 2021.
- 12.10 However, as outlined in previous sections, it is anticipated remote working will have some place within the organisation for years to come.
- 12.11 Whilst the regulations will have come to an end, social distancing remains, and the Council will need to hold its Full Council Meetings going forward at alternative venues.. Committees can be accommodated within the Chamber.
- 12.12 Given the pace of change still being experienced by the Pandemic it is expected that the urgent delegated decision provision will still need to be used on a frequent basis. Members are notified of such decisions within 5 days of them being made, and as previously stated, the Chair for CPR, PC and the Leader of the Opposition are always consulted.

13 Regulation of Investigatory Powers (RIPA)

- 13.1 The Human Rights Act 1998 requires the Council and organizations working on its behalf, pursuant to Article 8 of the European Convention, to respect the private and family life of a citizen, his home and his correspondence.
- 13.2 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.
- 13.3 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 authorization process which includes approval by a magistrate. Training has been carried out for key staff in February 2020 and more is planned for the coming months.

- 13.4 The Surveillance Commissioners officer carried out a review of arrangements in January and found that the arrangements in place were adequate but suggested two actions to improve the position. The first that Members are advised annually of the number of surveillance requests which have been approved. It can be confirmed that during 2020/2021 no requests were made. The second was that the policy which was last reviewed in July 2017 should be reviewed. This work will be carried during the 2021/2022 civic year and presented to Members in this report next year.