

FULL COUNCIL

18 JULY 2012

REPORT OF THE MONITORING OFFICER

CONSTITUTION 2012/13 - UPDATE

1.0 PURPOSE OF THE REPORT

1.1 The Council is requested to consider a number of updates to the Constitution as follows:

a) To reflect the changes to the system of regulation for standards of conduct in respect of elected and co-opted Members of the Council introduced by the Localism Act 2011 on the 1st July 2012.

b) the consequential changes as a result of the abolition of Overview, Scrutiny and Audit Committee by Full Council on 18th April 2012 and as referred by Full Council on 9th May 2012 to Governance Committee to consider.

c) the revision of Part 8 of the Constitution to include the 2012 version of the Performance Management Framework and System as reported to the Governance Committee on 27 June 2012.

d) Other minor corrections and amendments.

The revised constitution is attached at Appendix A with subsequent amendments highlighted as tracked changes.

2.0 RECOMMENDATIONS

It is recommended that Members:

2.1 Approve the Constitution as set out at Appendix A including the update to Part 8 of the Constitution to include the 2012 version of the Performance Management Framework and System.

2.2 Consider and approve a new Code of Conduct, a draft in respect of which is set out at Appendix B as considered by the Governance Committee at its last meeting.

2.3 Approve the revised interests form attached at Appendix C (to follow).

2.4 Approve the process for dealing with complaints as set out at Appendix D.

2.5 Approve the Governance Committee taking responsibility for dealing with complaints regarding failure to comply with the Code of Conduct.

- 2.6 **Approve that Council be requested to fill any vacancies on the Governance Committee so that it may fully undertake its role in dealing with complaints.**
- 2.7 **Approve three nominated Parish Councillors to be co-opted onto the Governance Committee for the purpose of being involved in Parish Conduct issues.**
- 2.8 **Delegate authority to the Monitoring Officer to implement the new standards arrangements in accordance with the above recommendations.**
- 2.9 **Following a request from Members to convert the MLDF task group to a working group reporting directly to Full Council, that this be approved.**
- 2.10 **Approve the substitute table attached at Appendix E (to follow) in accordance with the approved substitutes policy.**

3.0 KEY ISSUES – LOCALISM ACT STANDARDS CHANGES

3.1 Code of Conduct

- 3.2 At its meeting on 22 May 2012, the Governance Committee considered in some detail the actions required to implement the new standards regime required under the Localism Act 2011. As part of this process Members looked at the recently issued draft codes from the LGA and DCLG and requested the Monitoring Officer to combine certain parts of them with a view to developing a new code on that basis.
- 3.3 In the intervening period the Leicestershire District Monitoring Officers were approached regarding the potential for a County wide code. Fortuitously the Governance Committee on 27th June had the opportunity to consider both the combined code requested and the draft County code in respect of which the Governance Committee supported the adoption of. Some clarifications and a small amendment was suggested to the code at that meeting and the revised version is attached at Appendix B for Members' consideration and approval for inclusion in the constitution.
- 3.4 The draft code has been circulated to Members for comment prior to this reports finalisation and this meeting and an update will be given as appropriate.
- 3.5 In tandem to the approval of the new code Members are also requested to approve the new interests form which is attached at Appendix C, this will require completion, within 28 days of adoption of the code, by all Members. Non-disclosure of a pecuniary interest, as defined by the regulations, is now an offence under the Localism Act. In light of this and in order to facilitate prompt disclosures the Governance Committee requested that the committee agenda format be amended to include a form for disclosure. This is so that Members might provide any new interest declarations at the meeting or soon afterwards to the committee clerk for inclusion on the register. The register is now required to be provided, in full, on the Council's website, subject to any sensitive interests being redacted.

3.6 Dealing with Complaints and the Complaints Process

- 3.7 The Governance Committee has also given detailed consideration to the new process to be undertaken when complaints are received. In light of this it is

recommended to Members that the Governance Committee undertake the process of dealing with complaints, rather than establish a further Ethical Governance Panel, as previously considered, due to concerns regarding the practicalities associated with this. The Members at this committee also requested that the Governance Committee be brought up to a full compliment of Members so that it might effectively undertake this role, which will potentially involve meetings to consider complaints and if necessary hearings following any investigations that may be undertaken under the new system.

3.8 The proposed process as considered and amended by the Governance Committee in respect of dealing with complaints is attached at Appendix D for approval by Full Council. The notable features in respect of which are that:

- a) the detail of the complaint will be shared with the Member complained about at an early stage in the process.
- b) the process affords the Member the opportunity to seek to resolve the matter before it proceeds any further and it is hoped that many complaints will be resolved in this manner.
- c) Initial fact finding will be undertaken by the Monitoring Officer before reporting to a committee for consideration.
- d) The Members complained about and the Monitoring Officer will be able to liaise with the two independent persons as appropriate.
- e) It is recommended that Full Council agree to Parish Councillor co-optees who will act as a sounding board in respect of any complaints regarding parish councillors.

3.9 Standards Committee/Outstanding Complaints

3.10 The last meeting of the Standards Committee took place on the 21st June 2012 with all outstanding complaints having been dealt with.

3.11 A complaint was received by the Monitoring Officer on 23 June 2011 regarding a Parish Councillor/Parish Council and this will be dealt with through these new arrangements.

4.0 KEY ISSUES – OTHER MATTERS

4.1 The Governance Committee was tasked by Full Council on 9 May 2012 to consider the consequential changes to the Constitution following the decision of Full Council on 18 April 2012 to abolish the Overview, Scrutiny and Audit Committee. The Governance Committee considered and debated these changes on 22nd May 2012 and the changes as previously reported to Full Council have been incorporated into the constitution attached at Appendix A.

4.2 Performance Management Framework

4.3 The Governance Committee on 27 June 2012 considered and approved a revised performance management framework for incorporation into part 8 of the constitution and this has been included.

4.4 MLDF Task Group

4.5 Members have requested that the MLDF task group be converted to a Working Group reporting directly to Full Council and Members are requested to approve this.

4.6 Substitute Policy

4.7 In accordance with the substitute policy approved by Full Council a table indicating the proposed substitutes is presented for approval at Appendix E.

4.8 Minor Changes

4.9 Several minor changes have been included as tracked changes which are as follows:

- Changes to EU limits in line with new procurement rules.
- Minor amendments to contract procedure rules as advised by the Head of Central Services.

5.0 POLICY AND CORPORATE IMPLICATIONS

5.1 The Constitution is subject to annual review and due to it being a living document there may be requirements for change, which become apparent throughout the year. These may be collated for the next Constitution Review Task Group or, if urgent, may be considered at the next Full Council Meeting.

5.2 The revisions to the Scheme of Delegations to Officers provide that the Monitoring Officer has delegated authority to authorise amendments to the Constitution following legislative or other statutory changes and minor procedural and operational changes.

6.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

6.1 There are no financial and resource implications relating to this report.

7.0 LEGAL IMPLICATIONS/POWERS

7.1 Specific legal implications relating to each proposed amendment are taken into account when considering the relevant item.

8.0 COMMUNITY SAFETY

8.1 There are no community safety implications relating to this report.

9.0 EQUALITIES

9.1 There are no specific equalities implications relating to this report.

10.0 RISKS

10.1 Any risk implications relating to each proposed amendment are taken into account when considering the relevant item.

11.0 CLIMATE CHANGE

11.1 It is proposed that the revised Constitution be available electronically to Members and Officers to meet the Council's corporate commitment to the paperlight project.

12.0 CONSULTATION

12.1 There has been internal consultation with Management Team on the recommended amendments. The standards regime changes were reported to the last meeting of the Standards Committee on 21 June 2012 and all Parish Councils within the Borough have been advised accordingly by the Monitoring Officer.

13.0 WARDS AFFECTED

13.1 All wards are indirectly affected by this report.

Contact Officer : Christine Marshall, Monitoring Officer
Date : 7 July 2012

Appendices : Appendix A – Constitution Update – Proposed Amendments
Appendix B – New Code of Conduct
Appendix C – New Register of Interests Form
Appendix D – Process for Dealing with Complaints
Appendix E – Table of Proposed Substitutes

Background Papers : Constitution 2012