

GOVERNANCE COMMITTEE

31 MARCH 2015

REPORT OF THE MONITORING OFFICER

CONSTITUTION UPDATE 2014-15

1.0 PURPOSE OF THE REPORT

- 1.1 The Committee is requested to consider constitutional items and those agreed be referred to the Council for approval to be incorporated into the Council's Constitution.

2.0 RECOMMENDATIONS

- 2.1 To consider the following updates to the Constitution and those agreed be referred to the Full Council for adoption :-

- (a) To agree the additions, shown in red, to the General Delegations in connection with Staffing Matters within Part 3 at page 5 of the Officer Delegations as detailed in para 3.3 below.
- (b) To agree the changes to the ICT Protocol for Members set out with tracked changes in Appendix A;
- (c) To agree the changes to the Contract Procedure Rules as set out in paragraph 3.5 and the tracked changes in Appendix B;
- (d) To agree adding the Corporate Governance : CIPFA/SOLACE Framework previously approved by the Policy, Finance and Administration Committee in January 2008 to the Council's Constitution as set out at Appendix C;
- (e) To agree the changes to the Officer Delegations relating to Planning Applications as set out with tracked changes at Appendix D;
- (f) To agree the changes to the Members' Allowances Scheme to take account of the Parish Representatives allowance approved by Full Council on 25 February 2015 (Appendix E);
- (g) To agree changes to the Officer Delegations with regard to staffing matters to enable Management Team to make operational decisions without reference to the Chief Executive as set out with tracked changes in Appendix F;
- (h) To agree changes to the Financial Procedure Rules to enable Management Team to operate without reference to the Chief Executive as set out with tracked changes in Appendix G;

- (i) To agree changes to the Financial Procedure Rules to amend the limits to bring them into line with the current arrangements and to reflect the time value of money;
- (j) To agree a new delegation to the Head of Communities and Neighbourhoods relating to Car Parking Orders as follows :-

In consultation with the Head of Central Services authority to make new car parking orders or variations to existing car parking orders required as a result of changes to car parks approved by policy committees including undertaking the necessary public consultation and the consideration of objections received as a result. Objections considered as contentious by the Head of Communities and Neighbourhoods will be reported to the appropriate Committee for consideration. The delegation to include changes to the layout, change of use, tariff or acquisition or disposal of a car park.

- (k) To agree that the following Head of Central Services Delegation (item 64) is transferred to the Head of Communities and Neighbourhoods :-

To make orders prohibiting the parking of heavy goods vehicles in front gardens

3.0 KEY ISSUES

- 3.1 As the Constitution is a living document, any additions or changes are brought to the Committee’s attention as soon as these come to light to enable the Council’s work to move forward and the Constitution to be as up to date as possible. The Council’s Management Team and T3 (Third Tier Officer Group) are involved in updating their respective areas of the Constitution.
- 3.2 The Committee is to refer its recommendations for amending the Constitution to the Full Council for approval and inclusion in the Constitution.
- 3.3 Part 3 – Delegations to Officers - General Delegations in connection with Staffing Matters

For clarity and to enable operational progression, the Committee is requested to consider the following additions, shown in red below, to the General Delegations in connection with Staffing Matters within Part 3 at pages 5 and 6 of the Officer Delegations and refer the same to the Full Council for adoption and inclusion in the Council’s Constitution :-

<i>In consultation with Management Team, to approve minor additions to the approved staff establishment subject to :-</i>	<i>Chief Executive, Head of Communications</i>
<i>(1) There being adequate budgetary provision OR</i>	
<i>(2) In each case the gross cost not exceeding £5,000 per annum when implemented AND</i>	
<i>(3) The total cost in any financial year not exceeding the sum of £20,000 AND</i>	

(4) <i>Members of the Policy, Finance and Administration Committee being informed of any such changes when updated copies of the Council's staff list are issued.</i>

<i>In consultation with Management Team, to authorise the temporary additions to the establishment and appointment of staff subject to there being adequate budgetary provision.</i>	<i>Heads of Service/Chief Executive/Strategic Directors.</i>
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3.4 ICT Protocol for Members

The ICT Protocol for Members has been updated to be in line with the latest version of the Council's ICT Security Policy and changes have been made to include a definition of 'computer' to include ipads and a clearer explanation of the levels of information that may be held on the computer. These changes are tracked within Appendix A which is appended to this report.

3.5 Contract Procedure Rules

The Contract Procedure Rules have been updated and the changes are included within Appendix B which is appended to this report, and as well as some of the numbering being tidied up, a summary of the changes is specifically as follows :-

- The Rules have been changed in order to make them compliant with the Public Contract Regulations 2015 – so references to PCRs have been updated, reference to 'Part A' and 'Part B' have been removed and where relevant replaced with 'Light Touch Regime'.
- The biggest changes have happened between Rules 2.2 and 2.5. Rules 2.6 to 2.11 have seen minor changes to tie them in with the 2.2. to 2.5 changes.
- Rule 3.1 updated to bring in line with current practice
- Rules 3.2.1 and 3.2.2 updated to reflect the new Public Contract Regulations
- Rule 3.3.3 updated to reflect the new requirement to move to E Tendering
- Rule 3.4.2 updated to change the responsibility from Welland Procurement Unit to a relevant Head of Service – this is in line with practice
- Rule 3.6 updated to reflect the new Public Contract Regulations
- Rule 4.1.2 – insertion regarding prompt payments in line with new Public Contract Regulations
- Rule 4.2 was Statistical Returns – they are no longer required and therefore reference to them has been deleted
- Appendix C – table has been updated accordingly
- Appendix D – Sections on EU Thresholds and Advertising have been updated

The only other change is that the advertising threshold has been raised to £50,000 (from £25,000). This is a measure which has been discussed at the Welland Procurement Board to mitigate the potential increase in tenders arising from the need to advertise nationally and is allowable under the Public Contract Regulations 2015. It is hoped that the effect of this measure will be to enable small local businesses to have a better opportunity of winning contracts valued under £50,000.

3.6 Corporate Governance Framework

The Corporate Governance : CIPFA/SOLACE Framework was approved by the Policy, Finance and Administration Committee in January 2008 and is presented to the Committee for adding to the Council's Constitution. The document is set out at Appendix C.

3.7 Change to Head of Regulatory Services Delegations – Planning Applications

One element of the delegation agreement that hinges upon compliance with the local plan has become out of date and as such is an inappropriate measure, resulting in a significant proportion of even the most minor applications needing to go before the Committee, regardless of whether controversial. It is proposed to amend this reference to compliance with the NPPF in place of the Local Plan, being the most up to date policy provision at present. Other measures – including the trigger dependent upon the number of objections (more than 5) and the ability for individual Ward Councillors to 'call in' applications - would be unaffected by this change. The proposed changes are set out with tracked changes at Appendix D.

3.8 Members' Allowances Scheme

Following approval by the Full Council on 25 February 2015 of a payment to the Parish Representatives involved in Parish Councillor complaints by the Governance Committee, the Members' Allowances Scheme has been duly updated and is presented for approval at Appendix E.

3.9 Officer Delegations (Staffing Matters) and Financial Procedure Rules

To enable Management Team to approve relevant changes without reference to the Chief Executive, updates to the Officer Delegations relating to staffing matters (set out with tracked changes at Appendix F) and the Financial Procedure Rules (set out with tracked changes at Appendix G) are proposed. These will enable either the Head of Central Services or the Head of Communications in consultation with Management Team to approve delegated decisions.

Also the opportunity has been taken to update some of the financial limits within the Financial Procedure Rules to ensure only exceptional items are taken to Members for approval and that they are in line with approved delegations.

3.10 Officer Delegations – Car Parking Orders

To enable Committee decisions on car parking arrangements to be legally put in place, a new Officer Delegation to the Head of Communities and Neighbourhoods is proposed as follows :-

In consultation with the Head of Central Services authority to make new car parking orders or variations to existing car parking orders required as a result of changes to car parks approved by policy committees including undertaking the necessary public consultation and the consideration of objections received as a result. Objections considered as contentious by the Head of Communities and Neighbourhoods will be reported to the appropriate Committee for consideration. The delegation to include changes to the layout, change of use, tariff or acquisition or disposal of a car park.

Also the following Head of Central Services Delegation (item 64) is proposed to be transferred to the Head of Communities and Neighbourhoods which is more appropriate based on the service areas the officers are responsible for :-

To make orders prohibiting the parking of heavy goods vehicles in front gardens

4.0 POLICY AND CORPORATE IMPLICATIONS

4.1 Due to the Constitution being a living document there are times when amendments are needed to enable the organisation to function efficiently. Therefore items will be referred to the Committee as required.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

5.1 Any financial and resource implications will be met from existing resources.

6.0 LEGAL IMPLICATIONS/POWERS

6.1 Any change in legislation overrides the current wording of the Constitution and the Monitoring Officer has delegated authority to make amendments as required by the law. Therefore such legal consequential changes will be put in place immediately and reported to the Committee as soon as possible thereafter.

7.0 COMMUNITY SAFETY

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

8.0 EQUALITIES

8.1 Equalities Screening Assessments have been drafted on the items within the report and these are available on the Council's website.

9.0 RISKS

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

10.0 CLIMATE CHANGE

10.1 The Constitution is available on the Council's website and electronically to Members and Officers to meet the Council's corporate commitment to meet green targets.

11.0 CONSULTATION

11.1 There has been internal consultation with Management Team and T3 to ensure the Constitution reflects the Council's current responsibilities and arrangements. .

12.0 WARDS AFFECTED

12.1 All wards are indirectly affected by this report.

Date : March 2015

Appendices : Appendix A – ICT Protocol for Members
Appendix B – Contract Procedure Rules
Appendix C – Corporate Governance Framework
Appendix D – Officer Delegations – Head of Regulatory Services (Items 11 – 14)
Appendix E – Members' Allowances Scheme
Appendix F – Part 3 - Officer Delegations
Appendix G – Financial Procedure Rules

Background Papers : Constitution 2014/15