

AGENDA



For a meeting of the
COUNCIL
to be held on
THURSDAY, 18 OCTOBER 2012
at
2.00 PM
in the
COUNCIL CHAMBER, COUNCIL OFFICES, ST. PETER'S HILL, GRANTHAM
Beverly Agass, Chief Executive

Members of the Council are invited to attend the above meeting to consider the items of business listed below.

For those Councillors who wish to attend, prayers will be held in the Council Chamber at 1:55pm before the commencement of the meeting. Please be seated by 1:50pm.

1. PUBLIC OPEN FORUM

The public open forum will commence at **2.00 p.m.** and the following formal business of the Council will commence at **2.30 p.m.** or whenever the public open forum ends, if earlier.

2. APOLOGIES FOR ABSENCE

3. DISCLOSURE OF INTERESTS

Members are asked to declare any interests in matters for consideration at the meeting.

4. MINUTES OF THE MEETING HELD ON 13 SEPTEMBER 2012

(Attached)

5. COMMUNICATIONS (INCLUDING CHAIRMAN'S ANNOUNCEMENTS)

(Attached)

6. GRAVITY FIELDS

The Council will receive a brief review of the Gravity Fields Festival.

7. SCRUTINY COMMITTEE ANNUAL REPORT 2011/12

Report number LDS078 by the Scrutiny Committee Chairman. **(Attached)**

8. REPRESENTATIVES ON OUTSIDE BODIES

Report number LDS079 by the Portfolio Holder for Governance and Communication. **(Attached)**

9. AMENDMENTS TO THE CONSTITUTION

Report number LDS080 by the Constitution Committee Chairman. **(Attached)**

10. QUESTIONS WITHOUT DISCUSSION

To note the list of questions asked under Council procedure rule 11.1 as circulated at the start of the meeting and their reference to the relevant Policy Development Group.

11. NOTICES OF MOTION GIVEN UNDER COUNCIL PROCEDURE RULE 12:

1) Councillor Paul Wood

South Kesteven District Council operates the leader/cabinet arrangements for running the Council and the majority of decisions are taken by the members of the cabinet. The full Council take very few decisions and the majority of members are not involved in strategy decision making. Most members do not have a major role to play in the running of SKDC.

There are alternatives to this arrangement and the Localism Act 2011 permits Councils to change from one form of governance to another. The Chief Executive and the Monitoring officer have both confirmed to me that this is both legal and possible.

An alternative could be to operate a full committee system in which several committees are set up with specified responsibilities. The committees would be politically balanced and have responsibility for taking strategy decisions within their remit. In this way all members would be actively involved and be part of the running of SKDC.

Operating a committee system would mean that, apart from day-to-day operational decisions, decisions are made by committees comprised of Councillors from all political groups.

A committee system operated at SKDC for many years prior to the leader/cabinet arrangements and was very successful. Committees are the most democratic form of decision making and enable all Councillors to be involved and gain experience in many areas.

I am aware of other Councils reverting back to a Committee system and in particular Nottinghamshire County Council which is Conservative led agreed to return to Committees following a Nottinghamshire Conservative manifesto pledge. They successfully organised this change in the period from November 2011 to 17th May 2012 and now operate a full committee system. Nottinghamshire have also contained all costs within their existing budgets.

I propose that South Kesteven District Council agree to return to the Committee system and set a timescale to achieve this.

The deadline for notices of motion for the meeting on 13 December 2012 will be 2pm on Friday 30 November 2012.

MINUTES

COUNCIL

THURSDAY, 13 SEPTEMBER 2012

2.00 PM



PRESENT

Councillor Mrs Rosemary Kaberry-Brown Chairman

Councillor Bob Adams
Councillor Mark Ashberry
Councillor Ray Auger
Councillor Jean Bevan
Councillor Pam Bosworth
Councillor Robert Broughton
Councillor Terl Bryant
Councillor Paul Carpenter
Councillor Mrs Frances Cartwright
Councillor Ibis Channell
Councillor Michael Cook
Councillor Paul Cosham
Councillor Nick Craft
Councillor Alan Davidson
Councillor Phil Dilks
Councillor Reginald Howard
Councillor Vic Kerr
Councillor Michael King
Councillor Charmaine Morgan
Councillor David Nalson
Councillor Mrs. Linda Neal
Councillor John Nicholson

Councillor Helen Powell
Councillor Graddon Rowlands
Councillor Bob Russell
Councillor Bob Sampson
Councillor Susan Sandall
Councillor Bob Sandall
Councillor Trevor Scott
Councillor Ian Selby
Councillor Mrs Judy Smith
Councillor Jacky Smith
Councillor John Smith
Councillor Adam Stokes
Councillor Ian Stokes
Councillor Brenda A Sumner
Councillor Mike Taylor
Councillor Mrs Jean Taylor
Councillor Jeff Thompson
Councillor Bruce Wells
Councillor Martin Wilkins
Councillor Paul Wood
Councillor Rosemary H Woolley
Councillor Debbie Wren

OFFICERS

Chief Executive (Beverly Agass)
Strategic Director – Corporate Focus
(Daren Turner)
Strategic Director – Development and
Growth (Ian Yates)
Head of Legal and Democratic Services
(Lucy Youles)

OFFICERS

Property Development Manager (Neil
Cucksey)
Legal Executive (Shelley Hardy)
Principal Democracy Officer (Jo Toomey)
Economic Development and Investment
Service Manager (David Mather)
Gravity Fields Festival Director
(Rosemary Richards)

30. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Bisnauthsing, Chivers, Cooke, Griffin, Higgs, Jock Kerr, Parkin, Shorrocks, Stephens, Stevens, Turner and Wootton.

31. DISCLOSURE OF INTERESTS

No interests were disclosed.

32. MINUTES OF THE MEETING HELD ON 12 JULY 2012

It was proposed and seconded that the minutes from the meeting held on 12 July 2012 be agreed as a correct record subject to the following amendment:

- Page 8, minute number 25 – to amend the fourth from last paragraph to read: *“The Monitoring Officer explained that there would still be an opportunity for the granting of dispensations where 50% of councillors would currently be prevented from participating in a meeting because of interests.”*

This was put to the vote and carried.

33. COMMUNICATIONS (INCLUDING CHAIRMAN'S ANNOUNCEMENTS)

The Council noted the Chairman's engagements.

34. BOUNDARY COMMISSION - ELECTORAL REVIEW

Professor Paul Wiles CB (Lead Commissioner) and Richard Otterway (Review Officer) from the Local Government Boundary Commission for England gave a presentation to councillors summarising the reasons behind and the methodology for the pending electoral review of the district.

- The Local Government Boundary Commission for England was independent of government and political parties and directly accountable to Parliament through the Speaker's Committee.
- The Commission was responsible for reviewing local authority electoral arrangements, administrative boundaries and structure, and would make recommendations which would be implemented by Parliament.
- The criteria for starting an electoral review were: 30% of Wards had an electoral variance of more than 10% of the average and/or one Ward had a variance of more than 30% of the average.
- 38% of Wards in South Kesteven had an electoral variance greater than 10% of the average.
- The review would decide the total number of councillors (council size), number of Wards, names of Wards and boundaries of Wards.
- The criteria for the review were electoral equality (taking account of a

five-year forecast of the electorate size), community identity and effective and convenient local government.

- The review could not consider Parliamentary constituency boundaries, current district Wards, local political implications of recommendations, school catchment areas, postcodes or addresses, or polling districts.
- The only potential impact of the review on parishes was if a parish was divided between district Wards, in which instance parish Wards would be created.
- The council size would determine the number of Councillors elected; the starting point was the electorate councillors divided by the number of councillors and determining the optimum ratio between the two.
- As part of the preliminary work on council size, the Council would need to determine whether it had the right council size or whether it should increase or decrease based on demands on elected members' time, if it could operate more effectively with a different number of councillors, considerations of political management and governance, councillors' representative role and their representation of constituents.
- The Council was required to submit its council size proposals in draft by 14 December 2012. Final proposals needed submitting by 11 January 2013.
- The submission would be put out to public consultation and the Commission would use this and the responses to determine a 'minded to' council size.
- The Commission would then invite proposals for Warding patterns based on the 'minded to' council size. Draft recommendations would be published and subject to further consultation. The Commission would then publish final recommendations which would be implemented by Order in the Houses of Parliament.
- Submissions on council size and proposing warding arrangements needed detailed rationale, accurate electorate figures and a robust methodology for forecasting growth. It would also need to and provide good electoral equality.
- Representations needed to be backed by evidence; the most effective representations would suggest alternatives, take account of statutory requirements and consider the consequences of alternatives across the widest possible area.

Councillors put questions to Professor Wiles and Mr Otterway.

The Local Government Boundary Commission for England would work with local parishes, telling them about the review and how they could get involved. A councillor expressed concern that Grantham would not be included as it did not have a parish or town council. The Commission reassured that involvement from all public bodies and interested groups would be welcomed.

In response to further questions, councillors were advised that there was no national average ratio between councillor and electorate. Ratios reflected each distinct area; for example, it was likely the councillor/electorate ratio would be higher in urban city areas than rural districts. The council size was also

determined by the number of councillors required to successfully conduct the business of the Council.

Councillors highlighted Grantham's Growth Point status and commented that the electorate could increase as a result of major planned development. A robust methodology was required to project electorate figures five years from the end of the review to future-proof any new arrangements.

Commission representatives explained that the Warding proposals usually received higher numbers of consultation responses than proposals for council size. The more consultation responses received (positive and negative), helped determine whether the Commission's proposals were right for the area.

It was highlighted that the review was based on the number of registered electors, not the population of an area. There was some concern that the number of registered electors may be affected by the introduction of individual voter registration.

The Commission representatives explained that there were no preconceptions either about the future council size or whether Wards should be single or multi-member.

Consultation would be as widespread as possible. The Commission would work with the district council to use its communication outlets, for example newsletters, distribution lists and the website. Discussions would also take place with the local media, both radio and print. Information leaflets would be made available for parish councils and a meeting would be arranged for interested parties (including parish councils).

The Chairman thanked Professor Wiles and Mr Otterway for their presentation and councillors showed their appreciation with a round of applause.

35. GRAVITY FIELDS FESTIVAL

The Chairman welcomed the Economic Development and Investment Service Manager (David Mather) and the Gravity Fields Festival Director (Rosemary Richards), who gave a presentation on the Gravity Fields Festival.

The festival, which was to run between 21 September 2012 and 28 September 2012 would see the council working with over thirty public, private and third sector partners. The partners came from a range of science, arts and heritage backgrounds. In total there would be over 100 events taking place at 18 different venues in and around Grantham.

A copy of the Festival listings had been provided to all councillors and a mocked-up version of the souvenir programme was circulated.

Some of the events were highlighted, including a special display by the

National Portrait Gallery at Belton House, a dramatic audio walking tour which would be serialised on the radio, an exhibition of Ladybird science paintings, award winning and new creative and dramatic work, a range of talks and the closing event – the Transformation of the Town.

A varied publicity programme had been undertaken locally and nationally, including major newspapers, radio broadcasters and magazines. Over 150,000 leaflets had been distributed at a range of locations, and billboards and posters had been put up in and around Grantham and neighbouring towns.

Several councillors expressed their thanks to the team who were working on the project and their excitement and pride about the opportunities and experiences the festival would provide. Councillors praised the accessibility of events in respect of affordability and the wide variety of venues. It was hoped that all Councillors would support the festival.

The festival was raising the profile of Grantham and was being used as a selling point to encourage businesses to consider coming to the town. The marketing for the festival also encouraged visitors to explore other parts of the district.

One councillor questioned whether the subject could have been dealt with as a briefing outside the council meeting for those members who were interested. The consensus was that Members had found the presentation interesting and informative.

The Chairman expressed the Council's thanks for the presentation and encouraged all councillors to take part in the festival. Councillors could view full details of the festival on the website www.gravityfields.co.uk.

15:46 to 16:05 – the meeting adjourned. (Councillors Bob and Susan Sandall did not return to the meeting).

36. CIVIL PARKING ENFORCEMENT - OFF-STREET PARKING PLACES ORDER

Decision:

The Council adopts the South Kesteven District Council Civil Enforcement Off-Street Parking Places Order 2012, as attached at Appendix 1 of report number PD003 (with the substitution of the map of Wharf Road car park, Stamford circulated at the meeting) to commence on a date to be determined by the Secretary for Transport on the approval of the application by Lincolnshire County Council for Civil Parking enforcement powers for Lincolnshire. Such an Order will be adopted to replace the South Kesteven District Council (Off-Street Parking Places) Order 2009 and the South Kesteven District Council (Off-Street Parking Places (Pay and Display) Order 2010.

The Portfolio Holder for Grow the Economy – Economic Development advised the Council that the Department for Transport had confirmed the handover of parking enforcement powers to Lincolnshire County Council would happen on 30 November 2012. In preparation, the county council was consolidating its on-street parking Orders; district councils were undertaking a similar exercise for their off-street parking Orders. Enforcement would primarily become the responsibility of local authorities however the police would retain responsibility for enforcing endorseable offences. Consultation on the draft Parking Orders for South Kesteven had taken place and no objections were received. The Portfolio Holder moved the recommendations in report number PD003, which were seconded.

An amendment to the recommendation was proposed and seconded:

1. *“I would like to propose that the first 2 hours are totally free for shoppers. To help the traders get more money coming into the town and spending time – not rushing ‘in and out’*
2. *Certain car parks can be allocated only for commuters, leaving other car parks solely for shoppers.”*

The Monitoring Officer confirmed that the proposed amendment was an amendment of the proposed order and could be proposed as an amendment to the recommendation however if the amendment was approved the matter would need deferring for a fresh round of consultation on new draft Orders.

Councillors speaking against the amendment suggested that its consideration would be more appropriate as part of the review of fees and charges. The Chairman of the Resources Policy Development Group said new proposals should be put before members of this PDG for consideration.

Those speaking for the motion highlighted the potential advantages for the local economy.

In accordance with Council Procedure Rule 13(x) it was proposed and seconded that the question be now put. A vote was taken on this proposition and carried. The amendment was then put to the vote and lost.

The Grow The Economy – Economic Development Portfolio Holder agreed to amend her original proposition that the recommendation be approved subject to the substitution of the plan for Wharf Road car park in Stamford with one circulated at the meeting; the circulated map was the same as the one on which consultation took place.

Discussion ensued on the labelling of the map for the Arnoldfield car park in Gonerby Hill Foot and the potential for confusion; the sign post for Running Furrows was on the opposite side of the road to its location on the map. The map was an ordinance survey map and could not be altered. It was suggested that this could be remedied by the addition of a sign on the opposite side of the road.

One councillor questioned why Wyndham Park car park was included in Part 2 of the Order and not Part 1. Part 1 covered pay and display car parks, Part 2 covered free parking. Under Part 1 of the Order enforcement officers could enforce against the non-payment of parking charges or failing to park in accordance with the parking Order. Under Part 2, enforcement could only take place against the latter. Enforcement officers would have maps which highlighted whether car parks would be enforced under provisions in Part 1 or Part 2 of the Order.

Councillors discussed the dual role of parking officers, who would carry out enforcement work in South Kesteven on behalf of both the district and county councils. The officers would need to change their badge and the ticket book to identify the enforcement authority. Councillors questioned whether enforcement officers could wear both badges. Officers indicated that this was not possible; the enforcing authority would be clearly distinguishable. It was queried whether an enforcement officer displaying the wrong badge when issuing a ticket could invalidate that ticket; officers stated this was a potential point of challenge but would not necessarily invalidate a ticket.

Some Members questioned why Orders for Bourne were not included. The draft Orders covered Grantham and Stamford; Bourne car parks were not currently regulated under any parking Order and car parks were free so there was nothing against which to enforce.

The recommendation as modified was put to the vote and carried.

37. QUESTIONS WITHOUT DISCUSSION

One question without discussion had been received and referred to the relevant Policy Development Group.

Question

To: Councillor John Smith: Green, Healthy and Arts Portfolio Holder

From: Councillor Charmaine Morgan

Given the significant level of activity by North Kesteven District Council in complying with relevant Legislation to protect and enhance biodiversity, how are SKDC meeting their statutory Biodiversity Duty?

Where is SKDC's Biodiversity Evidence Base kept for reference by relevant parties including councillors, council officers, members of the public and developers?

What budget has been set aside in relation to this activity?

Referred to the Communities Policy Development Group

38. NOTICES OF MOTION GIVEN UNDER COUNCIL PROCEDURE RULE 12:

Notice of Motion submitted by Councillor Dilks

Decision:

That the Council rejects the motion:

“This motion seeks to improve the openness, accountability and efficiency of the Council and assist elected Members in carrying out their responsibilities in representing local residents.

Council notes that a Public Open Forum of up to 30-minutes is set aside at the start of each Council meeting for any resident of the District to question the administration, subject to written notification no later than 72-hours prior to the meeting.

The resident may reasonably expect to receive an answer at the meeting as well as a reply to a supplementary question.

Questions from Councillors are also required to be submitted within a similar time-frame, but are then treated very differently to questions from residents.

All questions from councillors are currently referred to ‘the relevant Policy Development Group’ irrespective of who they are directed to, delaying a reply for several weeks or even months.

In contrast, a councillor could expect a quicker reply by lodging a request under the Freedom of Information Act.

Council resolves to tackle this issue by tasking its Constitutional Committee to consider appropriate amendments to the Rules of Procedure to be voted on at the next Annual Meeting of the Council, thus ensuring that in seeking information, councillors are not more disadvantaged than the residents they are elected to represent.”

Councillor Dilks proposed the motion

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The motion was seconded.

In presenting his motion Councillor Dilks explained that he hoped to improve openness and accountability, and remove the anomaly that saw members of the public getting answers to their question (plus a supplementary question) at the council meeting to which they were put. He asked that the Constitution Committee consider appropriate amendments to the Rules of Procedure which could be voted on at the annual council meeting in 2013. The motion was seconded.

Those speaking in favour of the motion stated they felt it would improve transparency and indicated that it would be easier to represent their constituents by getting 'on the record' answers in a timely manner. They also stated that Councillors should not have to look through Policy Development Group records to find answers to their questions. Some Councillors expressed their concern that a one-to-one scenario did not provide an open view of the question or response.

Councillors speaking against the motion highlighted the access to Portfolio Holders, PDGs, Committees and officers that was available to Members. They refuted claims that sending questions to PDGs was pushing issues 'into the long grass'. Questions were considered at the next possible PDG meeting, answered, minuted and published.

Councillor Dilks summed up and reemphasised that in bringing the motion to council his intention was to improve openness, accountability and transparency.

There was a request for a recorded vote. However, failing to receive the

support of ten Members as per Council Procedure rule 16.4, the request was refused. The motion was put to the vote and lost.

Notice of Motion submitted by Councillor Dilks

Decision:

That the Council rejects the motion:

“This Council resolves that each SKDC Committee and Policy Development Group be invited to provide a short report on its work over the previous year to be presented to the Annual Meeting of the Council.”

Councillor Dilks proposed the motion

“This Council resolves that each SKDC Committee and Policy Development Group be invited to provide a short report on its work over the previous year to be presented to the Annual Meeting of the Council.”

The motion was seconded.

Councillor Dilks introduced his notice of motion and explained that he felt annual reports from each of the Committees and Policy Development Groups would help explain to the electorate what the council was doing. This was seconded.

Councillors speaking against the motion stated that the minutes from all public meetings were published on the website and would be made available to anyone requesting them.

The motion was put to vote and lost.

39. CLOSE OF MEETING

The meeting was closed at 17:14.

Agenda Item 5

SEPTEMBER 2012				
Date	Ref	Organisation	Location	Chauf
4.9.12	RKB056	Bishop of Lincoln – LHIA breakfast club	Bishop's Palace	
4.9.12	RKB046	Licensing of the Reverend David Shenton	St Anne's Church, Grantham	
9.9.12	RKB031	East Lindsey District Council Civic Service	Trinity Church, Tattershall	Yes
16.9.12	RKB057	North Lincs Council Civic Service	St Mary's Church, Broughton	Yes
17.9.12	RKB058	Lincoln City On The Buses	Town Hall	
21.9.12	RKB054 + VC	St Barnabas Lincolnshire Hospice Official Opening <i>Vice-Chairman also in attendance as Chairman may be delayed due to prior engagement at Lincoln</i>	Barrowby Road, Grantham	
21.9.12	RKB032 + VC	Gravity Fields Festival Opening Evening <i>Vice-Chairman can attend the "talk" as the Chairman needs to leave Grantham at 5.45 at the latest.</i>	Newton Room Guildhall – drinks 4pm followed by Opening, followed by Talk	
22.9.12	RKB044	Grantham Civic Society Blue Plaque unveiling – Sir Isaac Newton Tea with Sir Martin Rees at Priory Conference Centre, Market Place from 2pm Unveiling of plaque – George Shopping Centre at 3pm Talk by Sir Martin Rees at Guildhall Arts Centre at 4pm	Priory Conference Centre 2pm George Shopping Centre 3pm Guildhall Arts Centre 4pm	
22.9.12	RKB033	Gravity Fields Festival Heritage Banquet	Harlaxton Manor, Harlaxton, Grantham	
23.9.12	RKB041	Civic Service North Hykeham	All Saints Church, North Hykeham	
27.9.12	RKB034	Gravity Fields Innovation Conference	Stoke Rochford Hall	
27.9.12	RKB063	Newark & Sherwood District DC Feast of Nottinghamshire (Chairman and C. Councillor Chris Farrar)	Kelham Hall, Kelham, Newark-on-Trent, Nottinghamshire, NG23 5QX	
28.09.12	RKB064	Gravity Fields – 'Isaac Newton and the Age of Discovery'	National Trust, Belton House, Grantham	
28.9.12	RKB035	Gravity Fields Festival Finale Transformation of the Town –Finale Evening Festival Closing Event (+ Consort Cllr Bob Russell)	Grantham Town Centre – meeting in the Newton Room, The Guildhall, Grantham at 5.15 pm	
29.09.12	RKB069	Coffee Morning for Grantham Museum and McMillian Nurses	Grantham Museum St. Peter's Hill Grantham	
30.9.12	RKB024	SKDC Civic Service	Allington Church Allington Manor	Yes
OCTOBER 2012				
02.10.12	VC015	Opening of the Bridge Fair and Annual Sausage Supper – Peterborough City Council Vice-Chairman attending with Mrs Marion Webb	Town Hall, Bridge Street, Peterborough, PE1 1HG	
05.10.12	RKB059	The Worshipful the Mayor of Boston Councillor Colin Brotherton – Mayor's Charity Sausage and Mash Supper (Chairman + Cllr Bob Russell)	Conservative Club, Boston	Yes

REPORT TO COUNCIL

REPORT OF: Scrutiny Committee Chairman

REPORT NO: LDS078

DATE: 18 October 2012

TITLE:	Representatives on outside bodies	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	Not applicable	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Councillor Paul Carpenter – Portfolio Holder, Governance and Communication	
CONTACT OFFICER:	Lucy Youles 01476 40 61 05 l.youles@southkesteven.gov.uk	
INITIAL IMPACT ANALYSIS:	Carried out and Referred to in paragraph (7) below	Full impact assessment Required:
Equality and Diversity	Not applicable – see paragraph 7	
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	None	

1. RECOMMENDATIONS

1.1 Council is asked to note the report.

2. PURPOSE OF THE REPORT

2.1 Under Part 2, Article 6.4.2 of the Constitution, the Scrutiny Committee must report annually to the Council on its workings.

3. DETAILS OF REPORT

3.1 This report covers the period from 19 May 2011 to the 3 May 2012. The report provides a summary of the Committee's work during the course of the year.

4. OTHER OPTIONS CONSIDERED

4.1 The Council's Constitution prescribes that the Committee must submit a report each year to the Council.

5. RESOURCE IMPLICATIONS

5.1 None.

6. RISK AND MITIGATION

6.1 Risk has been considered as part of this report. No high risks to the Council were identified.

7. ISSUES ARISING FROM IMPACT ANALYSIS

7.1 The report provides a summary of work undertaken by the Scrutiny Committee in 2011/12; consequently no impact analysis is required.

8. CRIME AND DISORDER IMPLICATIONS

8.1 There are no crime and disorder implications arising as a result of this report.

9. COMMENTS OF FINANCIAL SERVICES

9.1 There are no financial comments to make in respect of this report.

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

10.1 It is a requirement under Part 2 of the Constitution that the Scrutiny Committee report annually to Council on its workings.

11. APPENDICES:

- Appendix 1 - Scrutiny Committee Annual Report 2011/12.

Scrutiny Committee Annual Report May 2011-May 2012

Chairman's Foreword

Following the election in 2011, 7 out of 11 Committee members had never been involved in Scrutiny before. There has been a steep learning curve for the committee and in December 2011, we benefited from an excellent training session that we found very useful and has significantly influenced how we work.

The Committee has looked at a wide range of topics with the support of Council officers and external visitors. We have also received input from some of our Portfolio Holders. We are very grateful to all the people who have taken the time to talk to us and answer our questions.

The Committee's largest undertaking this year was its first in-depth review on Procurement Lincolnshire. The Committee was very proud of the final document and a lot of hard work went into its production.

We expect the work of the Committee will develop further during 2012/13 as we gain in experience. We have put together a work programme with some projects that take us to the end of this term and are encouraged by the greater powers awarded to scrutiny in the new Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

*Councillor Reg Howard
Chairman, Scrutiny Committee*

Introduction

Overview and Scrutiny was introduced as part of the modernisation agenda for Local Government in the Local Government Act 2000. The Overview and Scrutiny process influences decisions but does not make them.

The role of scrutiny

- To provide a "critical friend" challenge to the Executive as well as external authorities and agencies
- To reflect the voice and concerns of the public and its communities
- Scrutiny members should take the lead and own the scrutiny process on behalf of the public
- Scrutiny should make an impact on the delivery of public services

The Scrutiny Committee is politically balanced, comprising 11 non-Executive members of the Council. It provides an opportunity for Members to challenge decisions made by the Executive.

The Scrutiny Committee has a responsibility to monitor the performance of the Council, consider its decisions, to question how those decisions are made and to recommend improvements.

The Scrutiny Committee also undertakes external scrutiny to examine the wider issues that affect people living within the district. The Council is required to have a Crime and Disorder Scrutiny Committee; the Constitution allows the Scrutiny Committee to fill this role.

SCRUTINY COMMITTEE

Chairman – Councillor Reg Howard
 Vice-Chairman – Councillor Mrs Judy Smith

Meeting Date	Commentary
14 June 2011	<p>This was the first meeting of the Committee following the quadrennial elections. The Committee received reports from Councillors who represented the authority on outside bodies including the Lincolnshire Health Scrutiny Committee, Bourne Youth Centre Management Committee and the Lincolnshire Flood and Drainage Management Committee.</p> <p>The Committee also considered ideas for its annual work programme. Suggestions included further reports from the Council’s representative on Lincolnshire County Council’s Health Scrutiny Committee, the Police Reform and Social Responsibility Bill and further scrutiny of Council performance against its priorities.</p>
30 August 2011	<p>The Committee considered the 2010/11 quarter four performance report on the ‘Quality Organisation’ priority. Members recognised the importance of the theme in ensuring the Council delivered a high quality service. To help improve the effectiveness of any future scrutiny of performance issues, the Committee requested it receive data in a format that would allow the Committee to compare year-on-year progress and that showed the direction of travel. It also recommended that contextual information to support any charts and graphs would further help the Committee in its Scrutiny.</p> <p>The Community Safety and Licensing Service Manager gave a presentation on the Police Reform and Social Responsibility Bill. Consequently a representative from Lincolnshire Police Authority (and chairman of the Community Safety Partnership) and the Chief Inspector with responsibility for the district were invited to attend a future meeting of the Committee.</p>
27 September 2011	<p>Representatives from Procurement Lincolnshire made a presentation to the Committee, which formed the basis for a report on the role of Procurement Lincolnshire and the service it provided for South Kesteven District Council. As part of the review, the Committee agreed to invite SKDC officers for their perspective on working with Procurement Lincolnshire.</p> <p>The Head of Finance gave an update on the Bourne Community Access Point project, on which SKDC was working with Lincolnshire County Council.</p> <p>The Committee also considered its draft annual report for 2010/11, which was presented to Council at its meeting on 20 October 2011.</p>

Meeting Date	Commentary
<p>29 November 2011</p>	<p>John Atter from the Lincolnshire Police Authority and the Chairman of the South Lincolnshire Community Safety Partnership talked to the Committee about the role of the police authority and the changes that would occur as a result of the Police Reform and Social Responsibility Act.</p> <p>Chief Inspector Mark Housley, who was responsible for neighbourhood policing in the South Kesteven district area gave an update, summarising changes to Lincolnshire Police's structure.</p> <p>As part of its review of Procurement Lincolnshire, members of the Committee reviewed a number of background papers (Lincolnshire Joint Scrutiny Committee review of Procurement Lincolnshire, the Procurement Lincolnshire Annual Report and the Procurement Lincolnshire structure chart) and asked the Head of Finance and the Property and Facilities Service Manager about the Council's relationship with Procurement Lincolnshire.</p>
<p>24 January 2012</p>	<p>The Committee received a presentation on S.106 Agreements and Community Infrastructure Levy from the Planning Policy and Partnerships Service Manager.</p> <p>The Committee convened a working group to consider the draft report on Procurement Lincolnshire, which contained a number of recommendations. The draft report was referred to the Scrutiny Committee meeting on 21 February 2012 for formal consideration.</p> <p>A presentation was given on the impact of new legislation on scrutiny provisions. The presentation considered the Localism Act, the Police Reform and Social Responsibility Act and the Health and Social Care Bill.</p>
<p>21 February 2012</p>	<p>The Committee considered its draft report on Procurement Lincolnshire. The contents of the report were finalised and the Committee agreed the report should be presented to Cabinet. The Cabinet considered the report and recommendations made by the Committee at its meeting on 5 March 2012 and supported the progression of the report to those bodies considered appropriate for the actions within the report to be undertaken.</p> <p>A brief update was given, which provided the latest information in respect of the Police Reform and Social Responsibility Act.</p>
<p>10 April 2012</p>	<p>The Committee considered recent media articles on the provision of services at Grantham hospital, specifically in respect of accident and emergency and mental health services. The Committee agreed to invite representatives from relevant bodies (including the chairman of the Joint Lincolnshire Health Scrutiny Committee) to answer questions about future provision of health services in Grantham.</p>

Meeting Date	Commentary
<p>3 May 2012 (adjourned from 10 April 2012)</p>	<p>The Committee asked questions of the Economic Development Portfolio Holder. Topics covered included Gravity Fields Festival, measuring the success of Economic Development work, potential opportunities through which the Scrutiny Committee could support the Portfolio Holder, training and briefings received by the Portfolio Holder on appointment (and ongoing), sustainable villages, the Grantham Area Action Plan and the Site Allocations Development Plan Documents, and Local Enterprise Partnerships.</p> <p>As a result of discussions with the Portfolio Holder, the skills agenda for young people was added to the Committee's work programme as a possible topic, as was the relationship between Portfolio Holders, policy development groups and council officers. Councillor Mrs Cartwright also circulated a list of her Portfolio responsibilities.</p>

REPORT TO COUNCIL

REPORT OF: Governance and Communication Portfolio Holder

REPORT NO: LDS079

DATE: 18 October 2012

TITLE:	Representatives on outside bodies	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	Not applicable	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Councillor Paul Carpenter – Portfolio Holder, Governance and Communication	
CONTACT OFFICER:	Lucy Youles 01476 40 61 05 l.youles@southkesteven.gov.uk	
INITIAL IMPACT ANALYSIS:	Carried out and Referred to in paragraph (7) below	Full impact assessment Required:
Equality and Diversity	Not applicable – see paragraph 7	
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	None	

1. RECOMMENDATIONS

1.1 The Council appoints a representative to the Upper Witham Internal Drainage Board.

2. PURPOSE OF THE REPORT

2.1 The Council's Constitution gives the Council powers to appoint representatives to outside bodies. A vacancy has arisen on the Upper Witham Internal Drainage Board, which gives the Council an opportunity to appoint a new representative.

3. DETAILS OF REPORT

3.1 Amongst the bodies to which the Council appoints a representative is the Upper Witham Internal Drainage. At the annual meeting of the Council on 19 May 2011, the Council appointed Councillors Bob Adams, Nick Craft and Ian Stokes as its representatives. Councillor Adams has since submitted his resignation as the Council's representative on the body. The Upper Witham Internal Drainage Board requires three representatives. Appointments to Internal Drainage Boards last for three years; this term will expire at the end of March 2014.

4. OTHER OPTIONS CONSIDERED

4.1 The Council could decline to make an appointment unless there was any legal requirement to do so.

5. RESOURCE IMPLICATIONS

5.1 Travelling expenses are payable to Councillors who attend meetings of outside bodies to which they have been appointed by the Council. Provision is made within the Legal and Democratic Services budget for the payment of travel expenses.

6. RISK AND MITIGATION

6.1 Risk has been considered as part of this report. No high risks to the Council were identified.

7. ISSUES ARISING FROM IMPACT ANALYSIS

7.1 The Council makes nominations and appointments to outside bodies. If the appointment of a Councillor to an outside body required changes to any of the Council's policies or procedures, it would be necessary to carry out an impact analysis on those changes.

8. CRIME AND DISORDER IMPLICATIONS

8.1 There are no crime and disorder implications arising as a result of this report.

9. COMMENTS OF FINANCIAL SERVICES

9.1 Any financial implications arising from this report have been included in the budget framework for 2012/13.

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

10.1 Such an appointment should only be registered as a disclosable pecuniary interest if it falls within one of the defined categories for such interests.

11. APPENDICES:

None.

REPORT TO COUNCIL

**REPORT OF: CHAIRMAN OF THE CONSTITUTION COMMITTEE –
COUNCILLOR RAY WOOTTEN**

REPORT NO: LDS080

DATE: 18 October 2012

TITLE:	Recommendations from the Constitution Committee - 24th September 2012	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	n/a	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Councillor Paul Carpenter – Governance and Communication	
CONTACT OFFICER:	Lucy Youles – Head of Legal and Democratic Services (Monitoring Officer) E-mail: l.youles@southkesteven.gov Telephone: 01476 406105	
INITIAL IMPACT ANALYSIS	Carried out and appended to the report:	Full impact assessment Required:
Equality and Diversity	n/a	n/a
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	<p>The Council's Constitution http://www.southkesteven.gov.uk/index.aspx?articleid=1974 Constitution Committee Agenda and Reports - 24th September 2012 http://moderngov.southkesteven.gov.uk/mgConvert2PDF.aspx?ID=2843&T=10 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 http://www.legislation.gov.uk/uksi/2012/2089/made The Localism Act 2011 http://www.legislation.gov.uk/ukpga/2011/20/contents The Neighbourhood Planning (General) Regulations 2012 http://www.legislation.gov.uk/uksi/2012/637/contents/made</p>	

1. RECOMMENDATIONS

It is recommended that Council approve the recommendations made by the Constitution Committee at its meeting on the 24th September 2012 as follows:

1.1 Motions on Notice

The Constitution Committee recommends to Council that the Constitution be amended at clause 12.3 of page 28 to read:

Motions must be about matters for which the Council has a responsibility or which directly affect the district. The content of any motion on notice shall consist of one single subject matter. No motion on notice shall be debated in the absence of the member who has proposed the motion.

1.2 Neighbourhood Plans – Delegation

The Constitution Committee recommends to Council that the Constitution be amended to insert at page 105.3 the following delegation to the Head of Development and Growth:

Neighbourhood Planning

To take, after consultation with the relevant Portfolio Holder and the local ward member(s), decisions on the following matters, as defined in the Localism Act 2011 and Neighbourhood Planning (General) Regulations 2012 (or as may be amended):

- *Applications to designate a Neighbourhood Area*
- *Applications to designate a Neighbourhood Forum*
- *To accept or decline repeat proposals for a Neighbourhood Development Plan or Neighbourhood Development Order*
- *Validity and acceptance of proposals for a Neighbourhood Development Plan or Neighbourhood Development Order*
- *Appointment of person to carry out examination of a Neighbourhood Development Plan or Neighbourhood Development Order*

1.3 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

The Constitution Committee recommends to Council the amendments to the Constitution to incorporate the changes introduced by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (the Regulations) as follows:

Page 63 – Proper Officer for Access to Information

15.3 (h) – delete existing clause and replace with:

Publication of Notices relating to Key Decisions

The Monitoring Officer will publish notices relating to key decisions in accordance with the provisions of the Local Authorities (Executive

Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Page 90 – Delegation to the Chief Executive

Add new item 4 – To authorise the Head of Paid Service to grant dispensation in respect of any conflict of interest of any Member of the Cabinet declared at meetings of the Cabinet

Page 106 – List of Proper Officers and Designated Officers for Particular Functions

Column C - add reference to Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 for items relating to Monitoring Officer and officer responsible for background papers

Add new item –

Column A - Monitoring Officer

Column B – Recording of Executive Decisions

Column C – Local Government Act 2000; The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Page 143 – Access to Information Procedure Rules

Scope – add reference to regulations made in accordance with section 9G, 9GA and 105 Local Government Act 2000.

Page 144 – Access to Agenda and Reports before the Meeting

Add after ..and designated offices – “and on the Council’s website”.

Page 146 – Public Inspection of Background Papers

Add to 8.2 – which will also be available on the Council’s website.

Page 147 – Exclusion of access by the Public to Meetings

Add new paragraph at clause 10.5 as follows:

*Where there is a requirement to hold a Cabinet meeting in private:
At least 28 clear days before a private meeting, the Cabinet must--*

- (a) make available at the designated offices a notice of its intention to hold the meeting in private; and*
- (b) publish that notice on the website.*

Any such notice must include a statement of the reasons for the meeting to be held in private.

At least five clear days before a private meeting, the Cabinet must--

- (a) *make available at the designated offices a further notice of its intention to hold the meeting in private; and*
- (b) *publish that notice on the website,*
Any such notice must include--
 - (a) *a statement of the reasons for the meeting to be held in private;*
- (b) *details of any representations received by the Cabinet about why the meeting should be open to the public; and*
- (c) *a statement of its response to any such representations.*

Where the date by which a meeting must be held makes compliance with this requirement impracticable, the meeting may only be held in private where the Cabinet has complied with Rule 16 (special urgency)

Page 155

Delete reference to the forward plan and replace with "Schedule of Decisions"

Page 156 and 157 - The Forward Plan

Delete pages 156 and 157 relating to the Forward Plan and replace with:

Schedule of Decisions

A key decision must not be made until a Schedule of Decisions has been published and made available for public inspection at the offices of the Council and on the Council's website at least 28 clear days before the decision is made which states:-

- (a) *that a key decision is to be made on behalf of the local authority;*
- (b) *the matter in respect of which the decision is to be made;*
- (c) *where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;*
- (d) *the date on which, or the period within which, the decision is to be made;*
- (e) *a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;*
- (f) *the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed are available;*
- (g) *that other documents relevant to those matters may be submitted to the decision maker; and*

- (h) *the procedure for requesting details of those documents (if any) as they become available.*

Exempt information need not be included in the Schedule of Decisions and confidential information cannot be included.

Page 157 – General Exception

- (i) *Delete “forward plan” and insert “Schedule of Decisions”*
(ii) *Insert “ the chair of the relevant Policy Development Group and....” before Scrutiny Committee*
(iii) *Insert “..... and on the Council’s website*

Add (iv) As soon as reasonably practical after all the above have been satisfied, The Monitoring Officer must make available at the Council offices a notice setting out the reasons why compliance with procedure rule 14 is impractical; and

Publish that notice on the Council’s website

Page 158 – Special Urgency

Add after notifies in writing :..... the Chairman of the relevant Policy Development Group and

Add further paragraph:

As soon as reasonably practicable after the decision maker has obtained agreement under this rule that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must--

- (a) *make available at the designated offices of the Council a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and*
- (b) *publish that notice on the website.*

Page 158 - Report to Council

- (a) *Delete forward plan and replace with Schedule of Decisions*

Page 159 – Quarterly Reports on Special Urgency Decisions

Add further paragraph at 17.3

The Leader must submit at least one report under paragraph 17.3 annually to the Council.

Page 162 – Access to Documents – Policy Development Groups and Scrutiny Committee

Delete clause 24 and replace with new clause 24 as follows:

24.1 A member of a Policy Development Group or Scrutiny Committee is entitled to a copy of any document which--

- (a) is in the possession or under the control of the Cabinet; and
- (b) contains material relating to--
 - (i) any business that has been transacted at a meeting of a decision-making body of the Council;
 - (ii) any decision that has been made by an individual member of the Cabinet in accordance with executive arrangements; or
 - (iii) any decision that has been made by an officer of the authority in accordance with executive arrangements.

24.2 Where a member of a Policy Development Group or the Scrutiny Committee requests a document which falls within paragraph 24.1, the Cabinet must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.

24.3 No member of a Policy Development Group or Scrutiny Committee is entitled to a copy--

- (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to--
 - (i) an action or decision that that member is reviewing or scrutinising; or
 - (ii) any review contained in any programme of work of such a Policy Development Group or Scrutiny Committee or sub-committee of such a committee;
- (b) of a document or part of a document containing advice provided by a political adviser or assistant.

24.4 Where the Cabinet determines that a member of a Policy Development Group or Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in paragraph 24.3, it must provide the Policy Development Group or Scrutiny Committee with a written statement setting out its reasons for that decision.

Page 163 – Additional Rights of Access for Members

Delete clause 25 and replace with new clause 25 as follows:

25.1 Any document which-

- (a) is in the possession or under the control of the Cabinet; and
- (b) contains material relating to any business to be transacted at a public meeting,

must be available for inspection by any member of the Council.

25.2 Any document which is required by paragraph 25.1 to be available for inspection by any member of the Council must be available for such inspection for at least five clear days before the meeting except that--

(a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and

(b) where an item is added to the agenda at shorter notice, a document that would be required to be available under paragraph 25.1 in relation to that item, must be available for inspection when the item is added to the agenda.

25.3 Any document which--

(a) is in the possession or under the control of the executive of the local authority; and

(b) contains material relating to--

(i) any business transacted at a private meeting;

(ii) any decision made by an individual member in accordance with executive arrangements; or

(iii) any decision made by an officer in accordance with executive arrangements,

must be available for inspection by any member of the Council when the meeting concludes or where an executive decision is made by an individual member or an officer immediately after the decision has been made.

25.4 Any document which is required by paragraph 25.3 to be available for inspection by any member of the relevant local authority must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

25.5 Paragraphs 25.1 and 25.3 do not require a document to be available for inspection if it appears to the proper officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the 1972 Act (descriptions of exempt information: England).

25.6 Notwithstanding paragraph 25.5, paragraphs 25.1 and 25.3 do require the document to be available for inspection if the information is information of a description for the time being falling within--

(a) paragraph 3 of Schedule 12A to the 1972 Act (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or

(b) *paragraph 6 of Schedule 12A to the 1972 Act.*

25.7 *Where it appears to the proper officer that compliance with paragraph 25.1 or 25.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant that paragraph will not apply to that document or part.*

25.8 *The rights conferred by paragraphs 25.1 and 25.3 are in addition to any other rights that a member of a local authority may have.*

Page 163

Add new paragraph 26

26 *Reports to the local authority where the key decision procedure is not followed*

26.1 *Where an executive decision has been made and--*

(a) *was not treated as being a key decision; and*

(b) *the Scrutiny Committee is of the opinion that the decision should have been treated as a key decision, that Committee may require the executive which is responsible for the decision to submit a report to the Council within such reasonable period as the Committee may specify.*

26.2 *A report under paragraph 26.1 must include details of--*

(a) *the decision and the reasons for the decision;*

(b) *the decision maker by which the decision was made; and*

(c) *if the executive are of the opinion that the decision was not a key decision, the reasons for that opinion.*

2. PURPOSE OF THE REPORT

The purpose of this report is to detail the recommendations made by the Constitution Committee at its meeting on the 24th September 2012 to Council for approval. The minutes of the Constitution Committee meeting of the 24th September 2012 are attached to this report at the Appendix for information.

3. DETAILS OF REPORT

The details of the recommendation and the reasons for the recommendations are given in the minutes of the Constitution Committee meeting attached to this report and the reports made to that meeting.

3.1 The recommendation at 1.1 relating to motions on notice at council meetings is made to ensure that each motion can only be accepted on the Council meeting

agenda where it relates to one single matter item. The recommendation also clarifies that if the member proposing a motion is not present at the meeting when the motion is to be debated, the motion will not be debated.

3.2 The recommendations made at 1.2 above are made to delegate to the Head of Development and Growth the authority to make procedural decisions relating to the implementation of neighbourhood plans and orders. The provision for neighbourhood plans and orders was introduced by the Localism Act 2011 and is regulated by the Neighbourhood Planning (General) Regulations 2012. The provisions allow parish, town councils and neighbourhood forums to instigate neighbourhood plans and orders which must be considered by local planning authorities. The ultimate decision as to whether to bring a plan or order into effect will be a decision for full Council.

3.3 The amendments to the Constitution recommended at 1.3 above are made to update the Constitution to include provisions introduced by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (The Regulations). The Regulations made under the Localism Act 2011 make changes to the decision making process in respect of meetings where exempt material is to be considered and the public are excluded, the process for taking key decisions, records of decisions and the availability of background papers. The amendments are necessary to ensure the various sections of the Constitution make reference to the Regulations and the wording of the Regulations is reflected in the Constitution.

4. OTHER OPTIONS CONSIDERED

Council has no other option but to consider the recommendations made by the Constitution Committee.

5. RESOURCE IMPLICATIONS

There are no known resource implications from the recommendations made.

6. RISK AND MITIGATION

Risk has been considered as part of this report and any specific high risks are included in the table below

Category Risk	Action / Controls
No significant risks	

7. ISSUES ARISING FROM IMPACT ANALYSIS

Equality impact analysis not required

8. CRIME AND DISORDER IMPLICATIONS

No crime and disorder implications arise as a result of this report

9. COMMENTS OF FINANCE SECTION

There are no financial implications resulting from this report.

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

Council is required to consider any change to the Constitution.

12. COMMENTS OF OTHER RELEVANT SERVICE MANAGERS

None applicable

13. APPENDIX

Minutes of the Constitution Committee meeting of the 24th September 2012

MINUTES

CONSTITUTION COMMITTEE
MONDAY, 24 SEPTEMBER 2012



COMMITTEE MEMBERS PRESENT

Councillor Ray Auger
Councillor Susan Sandall
Councillor Rob Shorrocks

Councillor Mrs Jean Taylor
Councillor Raymond Wooten (Chairman)

OFFICERS

Head of Legal and Democratic Services
(Lucy Youles)
Planning Policy and Partnerships Service
Manager (Karen Sinclair)
Democratic Officer (Lucy Bonshor)

OTHER MEMBERS

Councillor Bob Adams

7. MEMBERSHIP

Councillor Jean Taylor was substituting for Councillor Adam Stokes for this meeting only.

8. DISCLOSURE OF INTERESTS

None disclosed.

9. MINUTES OF THE MEETING HELD ON 28TH MAY 2012

The minutes of the meeting held on 28th May were agreed as a correct record of the decision taken.

10. AMENDMENTS TO THE CONSTITUTION

(i) Motions on Notice

Decision

The Constitution Committee recommends to Council that the Constitution be amended at clause 12.3 of page 28 to read:

Motions must be about matters for which the Council has a

responsibility or which directly affect the district. The content of any motion on notice shall consist of one single subject matter. No motion on notice shall be debated in the absence of the member who has proposed the motion.

The Chairman of the Committee referred to the July Council meeting at which Motions on Notice had been referred back to the Committee for further investigation. The Chairman informed the Committee that he had undertaken telephone calls with North Kesteven District Council, East Lindsey District Council, West Lindsey District Council and South Holland District Council, had e-mailed all Members of South Kesteven District Council and had looked at other authorities Constitution on the internet. He proposed that the number of motions remain unchanged as per clause 12.4 but that they consist of one single subject matter and that no notice on motion would be debated in the absence of the member who proposed the motion in order that the debate was fair and transparent. This proposal was seconded by Councillor Jean Taylor. Members felt that this was a sensible way forward but asked if there were any restrictions on the number of movers that a motion had, could a motion be moved by more than one mover. The Head of Legal and Democratic Service replied that no there were no restrictions, there was nothing to stop multiple movers subject to the motion being one of the two they were allowed. On being put to the vote the proposal was unanimously agreed.

(ii) **Localism Act – Members Code of Conduct**

The Head of Legal and Democratic Services informed the Committee that the report LDS075 was for information only. The report listed the changes made to the Constitution following the adoption of the Members Code of Conduct by the Council in July. A question was asked about future guidance to which the Head of Legal and Democratic Services replied that as the provision was at a local level there would be no government guidance. A further question was asked about complaints made about non parishes such as the Charter Trustees. The Head of Legal and Democratic Services replied that the Council had no authority to deal with complaints relating to unparished areas.

Members noted the changes.

(iii) **Neighbourhood Plans – Delegation**

Decision:

The Constitution Committee recommends to Council that the Constitution be amended to insert at page 105.3 the following delegation to the Head of Development and Growth:

4. Neighbourhood Planning

(i) To take, after consultation with the relevant Portfolio Holder and the local ward member(s), decisions on the following matters, as defined in the Localism Act 2011 and Neighbourhood Planning (General) Regulations 2012 (or as may be amended):

- Applications to designate a Neighbourhood Area**
- Applications to designate a Neighbourhood Forum**
- To accept or decline repeat proposals for a Neighbourhood Development Plan or Neighbourhood Development Order**
- Validity and acceptance of proposals for a Neighbourhood Development Plan or Neighbourhood Development Order**
- Appointment of person to carry out examination of a Neighbourhood Development Plan or Neighbourhood Development Order**

The Service Manager Planning Policy and Partnerships referred to report PLA948 which had been circulated with the agenda. The report referred to Neighbourhood Development Plans (NDP) and Neighbourhood Development Orders (NDO) which had been introduced by the Localism Act. The procedures for making NDPs and NDOs were very similar in each case only a qualifying body such as a Parish or Town Council except in unparished areas where a Neighbourhood Forum, a local organisation or body which must meet certain criteria set out in the Act, can be designated to instigate NDPs and NDOs. The Act and Regulations set out certain decisions on the administration and technical side of the documents that have to be undertaken by the Local Planning Authority before being examined by an independent examiner. This included the designation of neighbourhood areas (the area to be covered by the NDP or NDO) and forums and decisions on moving NDPs and NDOs on to the next stage of the process. A summary of stages was appended to the report. To make the decision quick and efficient and move it forward she recommended that the decision be delegated to the Head of Development and Growth. Any applications or submissions received would be discussed with the relevant Portfolio Holder and local Ward Member. An exception to this decision would be in respect of action to be taken in response to an examiner's report and whether to modify the Plan in response before submitting it for referendum and bringing into force the NDP as part of a Development Plan. Decisions on these matters would rest with the Cabinet and Full Council.

Various questions were then asked about the new plans and the Neighbourhood Plans submitted by Parish Councils between three and five years ago, would they become Neighbourhood Development Plans.

The Service Manager Planning Policy and Partnerships said that was not automatic. They had to follow the new processes and criteria, there was no provision in the Localism Act. The new NDPs were more planning issued based, therefore if a parish or town council had planning issues that they were keen to address in a local area they should go through the NDP process. Further questions were asked about membership especially for non parish areas such as Grantham. The Service Manager Planning Policy and Partnerships replied that they would have to seek designation and would have to have 21 Members who represented various different interests. Other questions were asked about the powers listed at 3.5 in the report and failure of plans on technicalities. A plan would fail if it was contrary to the Local Development Framework and it would be unlikely to get through the examination stage, unless it was substantially changed, it would be prevented from coming back for two years. The guidance conformed to strategic policies within existing plans such as the Core Strategy such as location, quantum housing, employment and retail development. The NDP's addressed more local issues within town centres. Further discussion followed on those Parishes that had already applied and grants to which the Head of Planning Policy and Partnerships replied. It was proposed, seconded and agreed to accept the proposed additions to the Head of Development and Growth's delegation.

(iv) **The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012**

Decision:

The Constitution Committee recommends to Council the amendments to the Constitution to incorporate the changes introduced by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (the Regulations) as follows:

Page 63 – Proper Officer for Access to Information

*15.3 (h) – delete existing clause and replace with:
Publication of Notices relating to Key Decisions
The Monitoring Officer will publish notices relating to key decisions in accordance with the provisions of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.*

Page 90 – Delegation to the Chief Executive

Add new item 4 – To authorise the Head of Paid Service to grant dispensation in respect of any conflict of interest of any Member of the Cabinet declared at

meetings of the Cabinet

Page 106 – List of Proper Officers and Designated Officers for Particular Functions

Column C - add reference to Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 for items relating to Monitoring Officer and officer responsible for background papers
Add new item –

Column A - Monitoring Officer

Column B – Recording of Executive Decisions

Column C – Local Government Act 2000; The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Page 143 – Access to Information Procedure Rules

Scope – add reference to regulations made in accordance with section 9G, 9GA and 105 Local Government Act 2000.

Page 144 – Access to Agenda and Reports before the Meeting

Add after ..and designated offices – “and on the Council’s website”.

Page 146 – Public Inspection of Background Papers

Add to 8.2 – which will also be available on the Council’s website.

Page 147 – Exclusion of access by the Public to Meetings

Add new paragraph at clause 10.5 as follows:

Where there is a requirement to hold a Cabinet meeting in private:

At least 28 clear days before a private meeting, the Cabinet must--

- (a) make available at the designated offices a notice of its intention to hold the meeting in private; and
- (b) publish that notice on the website.

Any such notice must include a statement of the reasons for the meeting to be held in private.

At least five clear days before a private meeting, the Cabinet must--

- (a) make available at the designated offices a further notice of its intention to hold the meeting in private; and
- (b) publish that notice on the website,

Any such notice must include--

- (a) a statement of the reasons for the meeting to be held in private;*
- (b) details of any representations received by the Cabinet about why the meeting should be open to the public; and*
- (c) a statement of its response to any such representations.*

Where the date by which a meeting must be held makes compliance with this requirement impracticable, the meeting may only be held in private where the Cabinet has complied with Rule 16 (special urgency)

Page 155

Delete reference to the forward plan and replace with "Schedule of Decisions"

Page 156 and 157 - The Forward Plan

Delete pages 156 and 157 relating to the Forward Plan and replace with:

Schedule of Decisions

A key decision must not be made until a Schedule of Decisions has been published and made available for public inspection at the offices of the Council and on the Council's website at least 28 clear days before the decision is made which states:-

- (a) that a key decision is to be made on behalf of the local authority;*
- (b) the matter in respect of which the decision is to be made;*
- (c) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;*
- (d) the date on which, or the period within which, the decision is to be made;*
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;*
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed are available;*
- (g) that other documents relevant to those matters may be submitted to the decision maker; and*

- (h) *the procedure for requesting details of those documents (if any) as they become available.*

Exempt information need not be included in the Schedule of Decisions and confidential information cannot be included.

Page 157 – General Exception

- (i) *Delete “forward plan” and insert “Schedule of Decisions”*
- (ii) *Insert “ the chair of the relevant Policy Development Group and....” before Scrutiny Committee*
- (iii) *Insert “..... and on the Council’s website*
- Add (iv) *As soon as reasonably practical after all the above have been satisfied, The Monitoring Officer must make available at the Council offices a notice setting out the reasons why compliance with procedure rule 14 is impractical; and Publish that notice on the Council’s website*

Page 158 – Special Urgency

Add after notifies in writing :..... the Chairman of the relevant Policy Development Group and

Add further paragraph:

As soon as reasonably practicable after the decision maker has obtained agreement under this rule that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must--

- (a) *make available at the designated offices of the Council a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and*
- (b) *publish that notice on the website.*

Page 158 - Report to Council

- (a) *Delete forward plan and replace with Schedule of Decisions*

Page 159 – Quarterly Reports on Special Urgency Decisions

Add further paragraph

The Leader must submit at least one report under paragraph (1) annually to the relevant local authority.

Page 162 – Access to Documents – Policy Development Groups and Scrutiny Committee

Delete clause 24 and replace with new clause 24 as follows:

- 24.1 A member of a Policy Development Group or Scrutiny Committee is entitled to a copy of any document which--
- (a) is in the possession or under the control of the Cabinet; and
 - (b) contains material relating to--
 - (i) any business that has been transacted at a meeting of a decision-making body of the Council;
 - (ii) any decision that has been made by an individual member of the Cabinet in accordance with executive arrangements; or
 - (iii) any decision that has been made by an officer of the authority in accordance with executive arrangements.
- 24.2 Where a member of a Policy Development Group or the Scrutiny Committee requests a document which falls within paragraph 24.1, the Cabinet must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.
- 24.3 No member of a Policy Development Group or Scrutiny Committee is entitled to a copy--
- (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to--
 - (i) an action or decision that that member is reviewing or scrutinising; or
 - (ii) any review contained in any programme of work of such a Policy Development Group or Scrutiny Committee or sub-committee of such a committee;
 - (b) of a document or part of a document containing advice provided by a political adviser or assistant.
- 24.4 Where the Cabinet determines that a member of a Policy Development Group or Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in paragraph 24.3, it

must provide the Policy Development Group or Scrutiny Committee with a written statement setting out its reasons for that decision.

Page 163 – Additional Rights of Access for Members

Delete clause 25 and replace with new clause 25 as follows:

25.1 Any document which--

- (a) is in the possession or under the control of the Cabinet; and*
- (b) contains material relating to any business to be transacted at a public meeting,*

must be available for inspection by any member of the Council.

25.2 Any document which is required by paragraph 25.1 to be available for inspection by any member of the Council must be available for such inspection for at least five clear days before the meeting except that--

- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and*
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under paragraph 25.1 in relation to that item, must be available for inspection when the item is added to the agenda.*

25.3 Any document which--

- (a) is in the possession or under the control of the executive of the local authority; and*
- (b) contains material relating to--*
 - (i) any business transacted at a private meeting;*
 - (ii) any decision made by an individual member in accordance with executive arrangements; or*
 - (iii) any decision made by an officer in accordance with executive arrangements,*

must be available for inspection by any member of the Council when the meeting concludes or where an executive decision is made by an individual member or an officer immediately after the decision has been

made.

- 25.4 *Any document which is required by paragraph 25.3 to be available for inspection by any member of the relevant local authority must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.*
- 25.5 *Paragraphs 25.1 and 25.3 do not require a document to be available for inspection if it appears to the proper officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the 1972 Act (descriptions of exempt information: England).*
- 25.6 *Notwithstanding paragraph 25.5, paragraphs 25.1 and 25.3 do require the document to be available for inspection if the information is information of a description for the time being falling within--*
- (a) *paragraph 3 of Schedule 12A to the 1972 Act (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or*
 - (b) *paragraph 6 of Schedule 12A to the 1972 Act.*
- 25.7 *Where it appears to the proper officer that compliance with paragraph 25.1 or 25.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant that paragraph will not apply to that document or part.*
- 25.8 *The rights conferred by paragraphs 25.1 and 25.3 are in addition to any other rights that a member of a local authority may have.*

Page 163

Add new paragraph 26

26 Reports to the local authority where the key decision procedure is not followed

- 26.1 *Where an executive decision has been made and--*
- (a) *was not treated as being a key decision; and*
 - (b) *the Scrutiny Committee is of the opinion that the decision should have been treated as a key decision, that Committee may require the executive which is responsible for the decision to submit a report to the Council within such reasonable period*

as the Committee may specify.

26.2 *A report under paragraph 26.1 must include details of--*

- (a) the decision and the reasons for the decision;*
- (b) the decision maker by which the decision was made; and*
- (c) if the executive are of the opinion that the decision was not a key decision, the reasons for that opinion.*

The Head of Legal and Democratic Services referred to report LDS076 which concerned changes to Regulations in connection with executive decision making. The changes had been issued in late August and would make the process more open and transparent. The former Regulations had been revoked and replaced with similar arrangements. Changes had been made to meetings where the public are excluded, the forward plan, scrutiny and background papers. The Head of Legal and Democratic Services then highlighted the main areas.

- There was now a requirement that if a key decision was to be made then 28 days clear notice had to be given not including weekends and bank holidays.
- The Forward Plan no longer existed but was replaced with a Schedule of Decisions. This would still be published monthly and would be on the website, but there was no longer a need to publish an annual notice.
- There was more emphasis on background papers, if they were referred to in a report they must be available for public inspection at the same time as the report.
- There were increase powers for the Scrutiny Committee, where background papers must be made available within 10 days.
- If the Scrutiny Committee believes a Non Key Decision should have been a Key Decision then they can request that the decision goes to Council.
- Key Decisions made by Officers are also subject to the 28 day clear notice. Currently this only seems to affect procurement.

Questions were then asked of the Head of Legal and Democratic Services concerning urgent decisions, past papers, past exempt papers and exempt papers concerning key decisions to which she replied. It was proposed, seconded and agreed to accept the proposed changes to the Constitution.

11. ANY OTHER BUSINESS WHICH THE CHAIRMAN, BY REASONS OF SPECIAL CIRCUMSTANCES, DECIDES IS URGENT - REVIEW OF THE CONSTITUTION

The following item was considered as a matter of urgency as the Head of Legal and Democratic Services needed to update Members with regard to the Review of the Constitution.

The Head of Legal and Democratic Services referred to the Constitution Review. An independent review to confirm the structure and robustness of current provision with emphasis on efficiency of decision making was proposed. It was agreed that the Review of the Constitution would be a standing item on future agendas.

>Action note

The Review of the Constitution was to be a standing item on future agendas.

12. CLOSE OF MEETING

The meeting closed at 11.10am.