

# AGENDA



For a meeting of the
<b>CONSTITUTION COMMITTEE</b>
to be held on
<b>MONDAY, 8 JULY 2013</b>
at
<b>10.30 AM</b>
in the
<b>WELLAND ROOM, COUNCIL OFFICES, ST PETER'S HILL, GRANTHAM</b>
<b>Beverly Agass, Chief Executive</b>

Committee Members:	Councillor Ray Auger, Councillor Vic Kerr, Councillor Alan Parkin (Vice-Chairman), Councillor Rob Shorrock and Councillor Raymond Wootten (Chairman)
Committee Support Officer:	Lucy Bonshor (01476) 40 61 20 <a href="mailto:l.bonshor@southkesteven.gov.uk">l.bonshor@southkesteven.gov.uk</a>

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

**1. MEMBERSHIP**

The Committee to be notified of any substitute members.

**2. APOLOGIES**

**3. DISCLOSURE OF INTERESTS**

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

**4. MINUTES OF THE MEETING HELD ON 15TH APRIL 2013**

**(Enclosure)**

**5. CORPORATE GOVERNANCE - INTERNAL AUDIT REPORT**

Report LDS099 by the Head of Legal and Democratic Services

**(Enclosure)**

**6. CONSTITUTION REVIEW**

- **Proposed Timetable for Review** – Report LDS098 by the Head of Legal and Democratic Services

**(Enclosure)**

- **Article 4 Meaning of Policy Framework** – Report LDS097 by the Head of Legal and Democratic Services

**(Enclosure)**

- **Consideration of Article 18** - Committee to discuss

**(Enclosure)**

**7. ANY OTHER BUSINESS WHICH THE CHAIRMAN, BY REASONS OF SPECIAL CIRCUMSTANCES, DECIDES IS URGENT**

# MINUTES

CONSTITUTION COMMITTEE  
MONDAY, 15 APRIL 2013



---

## COMMITTEE MEMBERS PRESENT

Councillor Susan Sandall  
Councillor Rob Shorrocks  
Councillor Raymond Wootten (Chairman)

## OFFICERS

Head of Legal and Democratic Services/Monitoring Officer (Lucy Youles)  
Democratic Officer (Lucy Bonshor)

---

### 18. APOLOGIES

An apology for absence was received from Councillor Ray Auger also from Councillor Adam Stokes.

### 19. DISCLOSURE OF INTERESTS

None disclosed.

### 20. MINUTES OF THE MEETING HELD ON 6 DECEMBER 2012

The minutes of the meeting held on 6th December 2012 were agreed as a correct record of the decisions taken.

### 21. AMENDMENTS TO THE CONSTITUTION: DELEGATED POWERS FOR THE PREVENTION AND DETECTION OF COUNCIL TAX SUPPORT FRAUD

#### **Recommendation:**

***The Constitution Committee recommends to Council that the Scheme of Delegation for the role of Strategic Director – Corporate Focus/Section 151 Officer be amended to include the Council Tax Reduction Scheme (Detection of Fraud and Enforcement) (England) Regulations 2013.***

The Committee had before them report HOF233. Following the decision made by Council in December 2012 to adopt a Local Council Tax Support Scheme

and new regulations made by the Secretary of State on 6th March 2013 in connection with the prevention and detection of fraud for Localised Council Tax Support Schemes, the scheme of delegation needed to be amended to include the new regulations and the powers they contained.

Members agreed with the proposed amendments to the Strategic Director – Corporate Focus/Section 151 Officer and it was moved, seconded and agreed.

It was suggested that perhaps amendments that were required due to changes in legislation did not need to come before the Constitution Committee, but could be changed automatically. The Head of Legal and Democratic Services replied that this would be something that would be looked into during the Constitution Review.

## 22. **AMENDMENTS TO THE CONSTITUTION: MEMBERS CODE OF CONDUCT PRINCIPLES OF CONDUCT IN PUBLIC LIFE**

### **Recommendation:**

***The Constitution Committee recommended to Council that the Members Code of Conduct – Principles of Conduct in Public Life be amended as attached at Appendix A to report LDS092 subject to the following also being included (underlined):***

***INTEGRITY: Holders of public office must avoid placing themselves under any obligation to outside individuals or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or material benefits for themselves, their family, their friends or other parties. They must declare and resolve and interests and relationships.***

***LEADERSHIP: Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge breaches of the Code by others where they see this occurring.***

Members had before them report LDS092 which introduced new definitions for the principles of conduct in public life which were approved by Government in January 2013. The Council at its meeting on 12th July agreed to adopt the Members Code of Conduct which included the defined principles as established by the Committee of Standards in Public Life. The new definitions were attached at Appendix A to the report.

A discussion followed with Members putting forward various additions to the definitions including the words respect, professionalism, manners and good conduct. It was however agreed that the additions could be looked at as subjective and various examples were given. It was very easy to confuse

standards of behaviour with ensuring lawful practice and challenges to breaches of the code. After further discussion and proposed additions to two of the principles, it was proposed, seconded and agreed that Appendix A be adopted subject to additions being included to the Integrity and Leadership principles.

### **23. CONSTITUTION REVIEW - UPDATE**

Members noted the proposals for changes to the Constitution following an external review which had been undertaken by a solicitor from Lincolnshire Shared Legal Services at Lincolnshire County Council who had been involved with reviews at authorities within the shared service. A specification for the review was attached to report LDS093 but included the following proposals for change

- Update article 4 - policy framework documents
- Revision of the process for making changes to the constitution which are matters of record or fact.
- Create one section of the constitution relating to functions of officers and delegations to officers. Simplify the way in which the scheme of officer delegation is set out.
- Establish one part of the constitution to deal with rules and procedures. These are currently spread throughout the constitution. For example The Cabinet is introduced at article 8 and the cabinet procedure rules are contained in part 4.
- Revision of and simplification of the budget and policy framework procedure rules, executive procedure rules and policy development procedure rules.
- Clarification of rules on voting for appointments and rules of substitution.

The content of the Constitution was to a large extent governed by law and direction from central government.

A Member asked for a timescale for delivery for the changes. A long stop of April 2014 was confirmed. The project methodology was being used and further milestones coming from the review would be established. These would be reported to the Constitution Committee. It was confirmed that the review was largely a matter of formatting and structure which would give clarity and pinpoint further areas for development.

### **24. CLOSE OF MEETING**

The meeting closed at 11.12am.

## REPORT TO CONSTITUTION COMMITTEE

**REPORT OF:** Head of Legal and Democratic Services

**REPORT NO:** LDS099

**DATE:** 8<sup>th</sup> July 2013

<b>TITLE:</b>	INTERNAL AUDIT - CONSTITUTION	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	Not applicable	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Councillor Paul Carpenter – Portfolio Holder for Governance and Communication	
<b>CONTACT OFFICER:</b>	Lucy Youles – Head of Legal and Democratic Services e-mail: <a href="mailto:l.youles@southkesteven.gov.uk">l.youles@southkesteven.gov.uk</a> Tel: 01476 4016105	
<b>INITIAL IMPACT ANALYSIS:</b>  Equality and Diversity	Carried out and Referred to in paragraph (7) below Not applicable	Full impact assessment Required:
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>BACKGROUND PAPERS</b>	The Constitution <a href="http://www.southkesteven.gov.uk/index.aspx?articleid=1974">http://www.southkesteven.gov.uk/index.aspx?articleid=1974</a>	

**1. RECOMMENDATIONS**

It is recommended that Members note the internal audit report relating to the Constitution attached as an appendix to this report.

**2. PURPOSE OF THE REPORT**

2.1 The purpose of the report is to inform members of the report and receive comment.

**3. DETAILS OF REPORT**

3.1 The internal audit report makes 2 recommendations for improvement in the process for updating and amending the Constitution. The first requires the collection of data relating to current issues of the Constitution and the implementation of a process to ensure that all copies of the Constitution issued are updated. The current process relies on individual members of staff collecting updates and inserting updated pages. There is no record of copies issued or of updates collected. The collection of information on issued copies has already begun and a process for recording updates collected will be used for the next release.

3.2 The second recommendation relates to notification of amendments required. A formal process to ensure officers are reminded of the need to review provisions of the Constitution and notify the monitoring officer of changes required will be put in place as part of the Constitution review. In addition, Members will be asked to consider proposals for rationalising the way in which amendments to the Constitution are implemented.

**4. OTHER OPTIONS CONSIDERED**

The report is for information only.

**5. RESOURCE IMPLICATIONS**

There are no resource implications relating to this report.

**6. RISK AND MITIGATION**

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

<b>Category Risk</b>	<b>Action / Controls</b>
No specific high risks have been identified	

**7. ISSUES ARISING FROM IMPACT ANALYSIS**

None

**8. CRIME AND DISORDER IMPLICATIONS**

None

**9. COMMENTS OF FINANCIAL SERVICES**

There are no financial implications related to this report.

**10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

Comments as detailed in this report

**11. COMMENTS OF OTHER RELEVANT SERVICES**

None

**12. APPENDIX: Internal Audit Report**

South Kesteven District Council

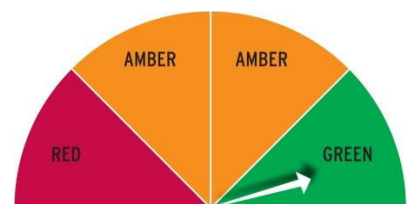
Corporate Governance

FINAL

Internal Audit Report (3.13/14)

12 June 2013

Overall Opinion



## CONTENTS

Section	Page
Executive Summary	1
Action Plan	4
Findings and Recommendations	5

Debrief meeting	29 May 2013	Auditors	Chris Williams, Partner Rob Barnett, Senior Manager Amjad Ali, Client Manager Kelly Waddoups, Lead Auditor Katy Matkin, Internal Auditor
Draft report issued	4 June 2013		
Responses received	11 June 2013		
Final report issued	12 June 2013	Client sponsor	Daren Turner, Strategic Director (Corporate Focus) Richard Wyles, Head of Finance Lucy Youles, Head of Legal & Democratic Services
		Distribution	Daren Turner, Strategic Director (Corporate Focus) Richard Wyles, Head of Finance Lucy Youles, Head of Legal & Democratic Services David Scott, Finance Support Manager Tracey Elliott, Insurance and Risk Officer



This review has been performed using RSM Tenon's bespoke internal audit methodology, **i-RIS**.

The matters raised in this report are only those which came to our attention during our internal audit work and are not necessarily a comprehensive statement of all the weaknesses that exist, or of all the improvements that may be required. Whilst every care has been taken to ensure that the information provided in this report is as accurate as possible, based on the information provided and documentation reviewed, no complete guarantee or warranty can be given with regard to the advice and information contained herein. Our work does not provide absolute assurance that material errors, loss or fraud do not exist.

This report is prepared solely for the use of Members and senior management of South Kesteven District Council. Details may be made available to specified external agencies, including external auditors, but otherwise the report should not be quoted or referred to in whole or in part without prior consent. No responsibility to any third party is accepted as the report has not been prepared, and is not intended for any other purpose.

© 2010 - 2012 RSM Tenon Limited

The term "partner" is a title for senior employees, none of whom provide any services on their own behalf.

RSM Tenon Limited is a subsidiary of RSM Tenon Group PLC. RSM Tenon Group PLC is an independent Member of the RSM International network. The RSM International network is a network of independent accounting and consulting firms each of which practices in its own right. RSM International is the brand used by the network which is not itself a separate legal entity in any jurisdiction.

RSM Tenon Limited (No 4066924) is registered in England and Wales. Registered Office 66 Chiltern Street, London W1U 4GB. England

## 1 EXECUTIVE SUMMARY

### 1.1 Introduction

An audit of Corporate Governance, focussing on the Council's Constitution document, was undertaken as part of the approved internal audit periodic plan for 2013/14.

The Council's Constitution was first introduced in 2000 with the introduction of the Local Government Act 2000, and follows the Government's Model Constitution template. A copy of the Constitution is available on the Council website, and a hard copy is also provided to Members and Senior Officers of the Council. Amendments to the Constitution, following changes in legislation or Council procedure, are considered by a Constitution Committee. Subsequent recommendations to amend the Constitution are made by the Chair of the Constitution Committee, with the support of the Council's Monitoring Officer to Full Council meetings; where the amendments can be formally ratified. Following any amendments, a master copy of the Constitution is updated and circulated to Members and Senior Officers; as well as being updated on the Council's website.

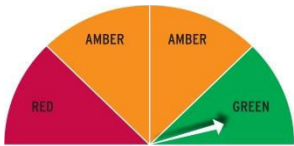
The Constitution Committee meets four times a year to tie in with full Council meetings. The Constitution Committee comprises of five Members; three Conservative, one Labour and one Independent; with Members being nominated and seconded at the Annual Full Council meeting in April each year. Agenda packs and supporting reports are sent out to Committee Members and other named interested parties in advance of the Committee meeting. All reports are reviewed by the Monitoring Officer and Democratic Officer for completeness, accuracy and quality before circulation.

The Constitution document has recently been reviewed by a Solicitor at Lincolnshire Shared Services for adequacy and completeness. A number of recommendations have been raised from the review, focussing on the structure and formatting of the document, and a provisional time scale of April 2014 has been set as the date for the changes to be delivered and implemented.

The audit was designed to assess the controls in place to manage the following objectives and risks:

Objective	To ensure the Council's governance arrangements are adequate to provide assurance to management and Members and for accountability purposes.
Risk	The Constitution, including the Scheme of Delegation, Financial Regulations and information presented to Members, does not assist informed decision making.

### 1.2 Conclusion



**Taking account of the issues identified, the Council can take substantial assurance that the controls upon which the organisation relies to manage this risk are suitably designed, consistently applied and effective.**

The above conclusions feeding into the overall assurance level are based on the evidence obtained during the review. The key findings from this review are as follows:

### Design of control framework

We found that the following controls were designed adequately:

- A Constitution document is in place which defines how the Council will conduct their business, how decisions are made, and the procedures to be followed to ensure the decisions are effective, efficient and transparent;
- The Constitution is subject to constant and ongoing review by the Monitoring Officer and the Constitution Committee;
- Updates to the Constitution are made and Council officers attend and provide professional knowledge to the Committee;
- All reports to the Constitution Committee are first reviewed by the Monitoring Officer and a Democratic Officer;
- All decisions made by the Constitution Committee are presented to the Full Council for ratification;
- A master copy of the Constitution is held by the Democratic Officer, with all ratified amendments being made within this copy and that published on the website;
- Prescribed Terms of Reference are in place for the Constitution Committee;
- The Constitution Committee has been formally delegated the authority to make recommendations to Full Council on amendments to the Constitution;
- Members sitting on the Constitution Committee do so following nomination and seconding at the Annual Full Council Meeting;
- A the Schedule of meetings is developed prior to the start of each new municipal year and circulated to all Members and senior officers;
- Attendance at the Constitution Committee is recorded to ensure the quorum of the Committee is met for each meeting;
- The agenda and supporting papers for each Constitution Committee meeting are sent out to Committee Members and other interested parties, and published on a timely basis to ensure informed decisions can be made.

### Application of and compliance with control framework

We identified the following weakness which resulted in two low recommendations;

- No formal process is in place for the monitoring and recording of which Members and senior officers have collected and therefore updated their copy of the Constitution following amendments ratified by Council;
- Responsibility for identifying potential required amendments lies equally with service managers and the Monitoring Officer, and as such, there is no formal procedure in place to ensure all potential updates to the Constitution are notified to the Monitoring Officer for inclusion in Constitution Committee papers. Whilst the Monitoring Officer is confident that the Constitution is accurate based on current legislation and procedures, no assurance is received to confirm this is the case.
- The Membership makeup of the Constitution Committee corresponds to that required as documented within the Constitution;

## 1.3 Scope of the review

To evaluate the adequacy of risk management and control within the system and the extent to which controls have been applied, with a view to providing an opinion. Control activities are put in place to ensure that risks to the achievement of the organisation's objectives are managed effectively.

When planning the audit, the following limitations were agreed:

**Limitations to the scope of the audit:**

- Testing will be completed on a sample basis.
- We will not actively seek to detect fraud or error.
- It must also be noted that our work does not provide an absolute assurance that material errors, loss or fraud do not exist.
- We will not form an opinion on the adequacy and effectiveness of individual committees or comment on decisions made by these committees.
- We will not review any other Committees other than the Constitution Committee.
- We will not review the Financial Regulations.
- A separate review of Members Code of Conduct is planned as part of the 2013/14 internal audit plan.

**The approach taken for this audit was a Risk-Based Audit.**

**1.4 Recommendations Summary**

The following tables highlight the number and categories of recommendations made. The Action Plan at Section 2 details the specific recommendations made as well as agreed management actions to implement them.

**Recommendations made during this audit:**

Our recommendations address the design and application of the control framework as follows:

	Priority		
	High	Medium	Low
Design of control framework	0	0	0
Application of control framework	0	0	2
<b>Total</b>	<b>0</b>	<b>0</b>	<b>2</b>

The recommendations address the risk within the scope of the audit as set out below:

Risk	Priority		
	High	Medium	Low
The Constitution including the Scheme of Delegation, Financial Regulations and information presented to Members does not assist informed decision making.	0	0	2
<b>Total</b>	<b>0</b>	<b>0</b>	<b>2</b>

## 2 ACTION PLAN

The priority of the recommendations made is as follows:

Priority	Description
High	
Medium	Recommendations are prioritised to reflect our assessment of risk associated with the control weaknesses.
Low	
Suggestion	These are not formal recommendations that impact our overall opinion, but used to highlight a suggestion or idea that management may want to consider.

	Recommendation	Categorisation	Accepted (Y/N)	Management Comment	Implementation Date	Manager Responsible
1	To ensure all Members and Senior Officers of the Council have an up to date version of the Constitution, records should be maintained of when each collects the updated pages.	Low	Y	All members are sent a copy by post to insert. A record is maintained of those sent out.  A record of current issues will be put in place  Officers will be informed by e-mail of amendments available and a record will be maintained of those collected. Those not collected will be reminded.  The current revision of the constitution will be completed in April 2014 when it is proposed that a new version of the constitution will be rolled out. There will be a recall of all existing copy constitutions and a record kept of all those issued.	1 <sup>st</sup> July 2013	Head of Legal & Democratic Services
2	A formal procedure should be implemented to ensure all potential updates to the Constitution are notified to the Monitoring Officer for inclusion in Constitution Committee papers.	Low	Y	A pro-forma will be produced to permit any change required and officers will be periodically reminded to review relevant sections and provide updates.	September 2013	Head of Legal & Democratic Services

### 3 FINDINGS AND RECOMMENDATIONS

This report has been prepared by exception. Therefore, we have included in this section, only those areas of weakness in control or examples of lapses in control identified from our testing and not the outcome of all audit testing undertaken.

	Controls (actual and/or missing)	Adequate Design (yes/no)	Test Result / Implications	Recommendation	Categorisation
	<b>Risk: The Constitution including the Scheme of Delegation, Financial Regulations and information presented to Members does not assist informed decision making.</b>				
1	<p>A master copy of the Constitution is held by the Democratic Services Officer.</p> <p>Amendments approved by Full Council are updated on the master copy and details are updated on the Council's website.</p>	Yes	<p>A master copy of the Constitution, containing all ratified updates and amendments is held by the Democratic Services Officer. Amendments on the hard copy of the Constitution are highlighted to reflect the changes made.</p> <p>The Constitution is updated on the Council's website and Intranet page in a timely manner.</p> <p>Our review of nine recommendations considered by the Constitution Committee and ratified by Council found that all nine recommendations had been updated in the master copy of the Constitution.</p> <p>Once the Constitution has been updated, amended pages are made available to Members and Officers.</p> <p>There is no formal process in place for monitoring and recording which staff and Members have collected the amended pages of the constitution. There is a risk that decisions are made based on out of date information within the Constitution.</p>	<p>To ensure all Members and Senior Officers of the Council have an up to date version of the Constitution, records should be maintained of when each collects the updated pages.</p>	Low

	Controls (actual and/or missing)	Adequate Design (yes/no)	Test Result / Implications	Recommendation	Categorisation
2	A formal process is in place to allow Council Officers to inform the Monitoring Officer of updates required to the Constitution for their relevant service areas.	Yes	<p>Council Officers are responsible for notifying the Monitoring Officer of any required amendments to the Constitution for their service areas. However, the Monitoring Officer does not receive assurance from Officers that the Constitution is up to date. As a result, any changes to legislation which would impact on the Council's Constitution may not necessarily be communicated to the Monitoring Officer.</p> <p>A previous internal audit recommendation regarding the updating of the Scheme of Delegation had not been formally reviewed and discussed by the Constitution Committee. As this Committee would be responsible for such decisions, any recommendations made of such a manner should be out to the Committee for discussion, acceptance and a subsequent proposal to Council.</p>	A formal procedure should be implemented to ensure all potential updates to the Constitution are notified to the Monitoring Officer for inclusion in Constitution Committee papers.	Low

## REPORT TO CONSTITUTION COMMITTEE

**REPORT OF:** Head of Legal and Democratic Services

**REPORT NO:** LDS098

**DATE:** 8<sup>th</sup> July 2013

<b>TITLE:</b>	CONSTITUTION REVIEW – Proposed Timetable for Review	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	Not applicable	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Councillor Paul Carpenter – Portfolio Holder for Governance and Communication	
<b>CONTACT OFFICER:</b>	Lucy Youles – Head of Legal and Democratic Services e-mail: <a href="mailto:l.youles@southkesteven.gov.uk">l.youles@southkesteven.gov.uk</a> Tel: 01476 4016105	
<b>INITIAL IMPACT ANALYSIS:</b>  Equality and Diversity	Carried out and Referred to in paragraph (7) below Not applicable	Full impact assessment Required:
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>BACKGROUND PAPERS</b>	The Constitution <a href="http://www.southkesteven.gov.uk/index.aspx?articleid=1974">http://www.southkesteven.gov.uk/index.aspx?articleid=1974</a>  LDS 093 – Review of Constitution	

## 1. RECOMMENDATIONS

It is recommended that Members consider the proposed timetable and topics for review of the Constitution.

## 2. PURPOSE OF THE REPORT

2.1 The purpose of the report is to inform members of the proposed timetable and topics for review as detailed in this report.

## 3. DETAILS OF REPORT

3.1 Members were presented with Report LDS093 at their meeting on the 15<sup>th</sup> April 2013 outlining the proposals for change to the Constitution following and independent review.

3.2 Following that report work has been ongoing to commence the reviews of various sections of the Constitution to produce a fully reviewed Constitution by April 2014. Bearing in mind the timetable of meetings for the Constitution Committee, the following work plan is proposed:

- 8<sup>th</sup> July 2013 – Review of Article 4.1 and consideration of Article 18.
- 23<sup>rd</sup> September 2013 – Review of scheme of delegation to officers and creation of a section on officer information. Clarification on rules of voting for appointments and rules of substitution.
- 16<sup>th</sup> December 2013 – Review and simplification of executive and policy development procedure rules and creation of a section on Member information.
- 24<sup>th</sup> March 2014 – Review and simplification of budget and policy framework procedure rules.
- 17<sup>th</sup> April 2014 – Presentation to Council of revised Constitution

## 4. OTHER OPTIONS CONSIDERED

Various options for the delivery of the review have been considered. Where possible, the review should be carried out within the schedule of meetings for the Constitution Committee. Further additional meetings may be required to deliver the revised Constitution at the annual meeting of Council on the 17<sup>th</sup> April 2014

## 5. RESOURCE IMPLICATIONS

There are currently no resource implications relating to this report. The work will be carried out in –house and, where possible, using the knowledge and expertise of officers throughout the organisation

## 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 specific high risks have been identified	

**7. ISSUES ARISING FROM IMPACT ANALYSIS**

None

**8. CRIME AND DISORDER IMPLICATIONS**

None

**9. COMMENTS OF FINANCIAL SERVICES**

There are no financial implications related to this report.

**10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

Comments as detailed in this report

**11. COMMENTS OF OTHER RELEVANT SERVICES**

None

**12. APPENDIX: None**

# REPORT TO CONSTITUTION COMMITTEE

**REPORT OF:** Head of Legal and Democratic Services

**REPORT NO:** LDS097

**DATE:** 8<sup>th</sup> July 2013

<b>TITLE:</b>	CONSTITUTION REVIEW – ARTICLE 4 - MEANING OF POLICY FRAMEWORK	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	Council Decision	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Councillor Paul Carpenter – Portfolio Holder for Governance and Communication	
<b>CONTACT OFFICER:</b>	Lucy Youles – Head of Legal and Democratic Services e-mail: <a href="mailto:l.youles@southkesteven.gov.uk">l.youles@southkesteven.gov.uk</a> Tel: 01476 4016105	
<b>INITIAL IMPACT ANALYSIS:</b>  Equality and Diversity	Carried out and Referred to in paragraph (7) below Not applicable	Full impact assessment Required:
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>BACKGROUND PAPERS</b>	The Constitution <a href="http://www.southkesteven.gov.uk/index.aspx?articleid=1974">http://www.southkesteven.gov.uk/index.aspx?articleid=1974</a>	

## **1. RECOMMENDATIONS**

It is recommended that the Constitution Committee recommend to Council the adoption of an updated Article 4.1 of the Constitution as follows:

### **4.1 Meanings**

#### **Policy Framework**

The policy framework means the plans and strategies required to be adopted by the Council:

- The Corporate Plan
- The Medium Term Financial Strategy
- The Core Strategy and Development Plan Documents
- The Sustainable Communities Strategy
- The Pay Policy
- The Gambling Statement of Licensing Principles

## **2. PURPOSE OF THE REPORT**

- 2.1 The purpose of the report is to inform members of the proposed update to the Constitution at Article 4 - page 40 of the Constitution for recommendation to Council to approve those policy framework documents which must be adopted by full Council.

## **3. DETAILS OF REPORT**

- 3.1 The Council are required to have in place, and available for public view, a constitution which meets the requirements of the Local Government Act 2000 and all relevant, subsequent legislation. The Constitution should set out those matters which the Council considers are matters for the full Council to determine. The current matters are as set out at Article 4 of the Constitution. This Article sets out the meaning of policy framework documents which require approval/adoption by full Council. This list is out of date and requires updating.
- 3.2 The current list includes reference to:
- a best value performance plan,
  - community strategy,
  - crime and disorder reduction strategy and;
  - plans and strategies which together comprise the Development Plan.
- 3.3 Until 1 April 2008, local authorities were required to draw up an annual Best Value Performance Plan to demonstrate how they will satisfy their best value duty and to show how their progress is measured against best value performance indicators. The requirement to produce the plan was abolished when the Comprehensive Performance Assessment was replaced with the Comprehensive Area Assessment (CAA). In June 2010 the government announced that the CAA would be formally abolished and no similar provision is currently in place.

- 3.4 The community strategy has been replaced by the requirement for a Sustainable Community Strategy by virtue of an amendment to the Local Government Act 2000.
- 3.5 The District Council is not a responsible authority for provision of a crime and disorder reduction strategy. This is a statutory responsibility of county councils. The District Council has a responsibility in accordance with s.17 of the Crime and Disorder Act 1998 to consider crime and disorder implications. This is done as a matter for consideration on reports made to Council, Cabinet, Committees and Policy development Groups.
- 3.6 The provision of a pay policy statement was introduced by the Localism Act 2011. It is a requirement of the Act that the policy statement must be approved by resolution of the authority before it comes into force.
- 3.7 It is a requirement of the Gambling Act 2005 that each authority adopts a gambling statement of licensing principles every 3 years. The Council last adopted a statement of principles in December 2010.
- 3.8 Council adopted the Core Strategy in 2010. The Core Strategy and Development Plan Documents are the current terminology for the documents which make up the Local Development Framework.
- 3.9 The Medium Term Financial Strategy is approved by Council for a specified period.

**4. OTHER OPTIONS CONSIDERED**

The proposed meaning of policy framework document must be updated and continue to be reviewed to take account of legislative and other changes. No other options have been considered.

**5. RESOURCE IMPLICATIONS**

There are no resource implications relating to this report.

**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 specific high risks have been identified	

**7. ISSUES ARISING FROM IMPACT ANALYSIS**

None

**8. CRIME AND DISORDER IMPLICATIONS**

None

**9. COMMENTS OF FINANCIAL SERVICES**

There are no financial implications related to this report.

**10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

These proposed amendments are part of a wider review of the whole Constitution. All decisions made in respect of the documents listed have been made by full Council.

**11. COMMENTS OF OTHER RELEVANT SERVICES**

None

**12. APPENDIX: None**

## **Extract from South Kesteven District Council's Constitution**

### **ARTICLE 18 - REVIEW AND REVISION OF THE CONSTITUTION**

#### **18.1 Duty to monitor and review the constitution**

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

#### **18.2 Protocol for monitoring and review of constitution by Monitoring Officer**

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:-

- (i) Observe meetings of different parts of the member and officer structure;
- (ii) Undertake an audit trail of a sample of decisions;
- (iii) record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
- (iv) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

#### **18.3 Changes to the Constitution**

- (i) Constitutional changes may be prompted not only from internal reviews and evaluation of their governance, but also from changes in public opinion.
- (ii) Changes to the Constitution will only be approved by the full Council after consideration of a report by the Monitoring Officer on the proposal by the Constitution Committee.
- (iii) The Council has adopted a protocol on changes to the Constitution which is set out below

#### **18.4 Protocol for Changes to the Council's Constitution**

The Council's Constitution is a statutory document which sets out how the Council operates, how decisions are made and who makes them, the procedures to be followed, and the rules to which Councillors and officers are to abide.

Parts of the Constitution are merely statements of factual matters appertaining to the Council, such as its objectives and policy framework documents, some of these change from time to time by virtue of Council decisions, others, such as member and officer details occur without any decision of the Council being involved.

Other parts reflect the decisions of the Leader and Cabinet, e.g. as to its size and portfolios of responsibility. Such amendments will simply be made to record these.

Changes to the principles of the executive arrangements, and the various rules and codes would require adoption by or resolutions of the Council.

Article 18 of the Constitution provides for its amendment by Council to be the subject of consideration by the Constitution Committee following a report from the Monitoring Officer. Such reports are likely to result from the reviews and evaluation detailed in Article 18.

Specifically, the provisions of the Constitution considered to be able to be the subject of Constitution Committee recommendations to Council to effect any amendments are:

Part 2

Articles 2,6,8,9,,11,13,14, 15,16,17, 18 and 19

Article10 deleted

Part 4 (all)

Part 5 (all)

## Article 18.4

### Protocol for Changes to the Council's Constitution

- Article 2      Members of the Council
- Composition and eligibility
  - Election and terms of Councillors
  - Roles and Functions of all Councillors
  - Conduct
  - Allowances
- Article 6      Scrutiny Committee (including Crime and Disorder Overview & Scrutiny) pg43
- Scrutiny – introduction
  - Terms of Reference of the Scrutiny Committee
  - General Role
  - Specific Functions
  - Finance
  - Annual report
  - Proceedings of the Scrutiny Committee
- Article 8      The Cabinet pg47
- The Role of Cabinet
  - Leader with Cabinet
  - Other Cabinet Members (including the Deputy Leader)
  - Proceedings of the Cabinet
  - Responsibility for Functions
  - Consideration of reports from external auditors
- Article 9      Regulatory Arrangements pg50
- Regulatory and other committees
- Article 10     Deleted
- Article 11     The Constitution Committee pg50
- Composition
  - Membership
  - Role and Function
- Article 13     Area Based consultation mechanisms (ABCM's) pg55
- ABCM's
  - Form, composition and Function
  - Conflicts of interest – membership of ABCM's and Scrutiny Committee and PDGs
  - Area Based Consultation Mechanisms – Access to information
  - Cabinet Members on Area Based Consultation Mechanisms
- Article 14     Joint Arrangements pg56
- Arrangements to promote well being
  - Joint arrangements
  - Access to information
  - Delegation to and from other local authorities
  - Contracting out
- Article 15     Officers pg58
- Terminology

- Management Structure
- Functions of the Head of Paid Service (Chief Executive)
- Functions of the Monitoring Officer
- Functions of the Chief Finance Officer
- Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer
- Conduct
- Employment

Article 16 Decision Making pg65

- Responsibility for decision-making
- Principles of Decision Making
- Types of Decision
- Decision making by the Council
- Decision making by the Cabinet
- Decision making by the Scrutiny Committee
- Decision making by the PDG's
- Decision making by other Committees and sub-committees established by the Council
- Decision making by Council bodies acting as tribunals
- Budget and Policy Framework Decisions

Article 17 Finance, Contracts and Legal Matters pg 68

- Financial Management
- Contracts
- Legal Proceedings
- Authentication of documents
- Common seal of the Council

Article 18 Review and Revision of the Constitution pg69

- Duty to monitor and review the constitution
- Protocol for monitoring and review of constitution by the Monitoring Officer
- Changes to the Constitution
- Protocol for Changes to the Council's Constitution

Article 19 Suspension, interpretation and publication of the Constitution pg71

- Suspension of the Constitution
- Interpretation
- Publication

Part 4 – All procedure rules

- Council Procedure Rules
- Access to Information Procedure Rules
- Budget and Policy Framework Procedure Rules
- Executive Procedure Rules
- Policy Development Procedure Rules
- Scrutiny Committee Procedure Rules
- Financial Regulations
- Contract Procedure Rules
- Officer Employment Procedure Rules

Part 5 – Codes of Conduct

- Members Code of Conduct
- Staff Code of Conduct
- Member/Officer Protocol

Part 6 – Members Allowance pg290

Part 7 – Miscellaneous

- Members' Planning Code of Good Practice
- Protocol for the recording of public meetings in the Council Chamber
- Civic Protocol
- Equal Opportunities in relation to planning and delivery of services policy
- Data Protection
- Sponsorship Arrangements protocol