

# REPORT TO COUNCIL

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

**REPORT NO: LDS0110**

**DATE: 7<sup>th</sup> November 2013**

<b>TITLE:</b>	<b>Recommendations from the Constitution Committee - 23<sup>rd</sup> September 2013</b>	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	n/a	
<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 (Monitoring Officer) E-mail: <a href="mailto:l.youles@southkesteven.gov">l.youles@southkesteven.gov</a> Telephone: 01476 406105	
<b>INITIAL IMPACT ASSESSMENT:</b>	Carried out and appended to the report: n/a	Full impact assessment Required: n/a
<b>Equality and Diversity</b>		
<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 Council’s 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 Council approve the recommendations made by the Constitution Committee at its meeting on the 23<sup>rd</sup> September 2013 as follows:

- 1.1 Note the amendment in the wording of the policy framework documents at Article 4 of the Constitution to refer to the pay policy statement not the pay policy**

- 1.2 That the scheme of delegation to officers be amended to include the delegation of functions relating to the Scrap Metal Dealers Act 2013 as follows:

<b>Function:</b>	<b>Delegated to:</b>
Fee setting	The S151 Chief Finance Officer in consultation with the relevant portfolio holder.
Administration & Enforcement of the Scrap Metal Dealers Act 2013 – including powers to enter and inspect premises (Section 16) and serve Notices under Schedule 1, Section 7 (proposals to refuse, revoke or vary licences).	Operations Director or anyone authorised by them in writing
Grant of a site or collectors licence with or without conditions.	Operations Director or anyone authorised by them in writing
Refusal, revocation or variation of a site or collectors licence.	Operations Director or anyone authorised by them in writing
.Power to determine requests for an oral hearing following refusal, revocation or variation of a site or collectors licence	Licensing Committee
Power to make closure order	Licensing Committee

- 1.3 That the Articles 1,18 and 19 be amalgamated to form Article 1 of the Constitution to read as follows:

#### **ARTICLE 1 - THE CONSTITUTION**

- 1.1 Powers of the Council  
The Council will exercise all its powers and duties in accordance with the law and this Constitution.
- 1.2 The Constitution  
This Constitution, and all its codes and protocols, is the Constitution of the South Kesteven District Council and is called “the Constitution” for the purposes of this document. The Constitution sets out how the Council operates, how decisions are made and who makes them, the procedures to be followed, and the rules which Councillors and officers are to abide.
- 1.3 Purpose of the Constitution  
The purpose of this Constitution is to ensure:
- i) The Council provides community leadership, involving citizens in the democratic process,
  - ii) Councillors are assisted in effective representation,
  - iii) Decisions are taken efficiently and effectively, (providing reasons and permitting independent scrutiny) holding decision makers to account publicly,
  - iv) Improvement in the delivery of services.
- 1.4 Interpretation of the Constitution  
This Constitution shall be interpreted in accordance with the laws of England and all words shall be given their natural meaning where appropriate.
- 1.5 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.

#### 1.6 Protocol for monitoring and review of the 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 above. In undertaking this task the Monitoring Officer will have regard to any legislative changes affecting the Constitution and 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.

#### 1.7 Changes to the Constitution

- i) 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  
This excludes changes which are 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.
- ii) Changes to the principles of the executive arrangements, and the various rules and codes would require adoption by or resolutions of the Council

#### 1.8 Suspension of the Constitution

##### (a) Limit to suspension

The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the Council to the extent permitted within those Rules and the law.

##### (b) Procedure to suspend

A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution as at Article 1.3.

##### (c) Rules capable of suspension

The following Rules may be suspended:

All of the Council Rules of Procedure except Rule 16.5 and 19.2.

#### 1.9 Interpretation of Suspension

The ruling of the Chairman of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution as at Article 1.3.

#### 1.10 Publication of the Constitution

- i) The Monitoring Officer will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.

- ii) The Monitoring Officer will ensure that copies are available for inspection at Council Offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- iii) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area, is published on the Council's website and is updated as necessary.

## **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 23<sup>rd</sup> September 2013 to Council for approval. The reports made to the Constitution Committee and minutes of the Constitution Committee meeting of the 23<sup>rd</sup> September are attached to this report at the Appendix for information.

## **3. DETAILS OF REPORT**

- 3.1** The details of the recommendation and the reasons for the recommendation are given in the minutes of the Constitution Committee meeting attached to this report and the reports made to that meeting.
- 3.2** The Scrap Metal Dealers Act 2013 was enacted on the 1<sup>st</sup> October 2013. The Act requires local authorities to enforce the provisions of the Act. This will require the appropriate delegation of functions to officers and the Licensing Committee. The delegations recommended by the Constitution Committee are set out at clause 1.2 above. Officer delegations are proposed to the Operations Director. This post now carries out the functions of the Head of Environmental Health and will replace reference to the Head of Environmental Health in the scheme of delegations.
- 3.3** The ongoing review of the Constitution has identified parts of the Constitution which can be amalgamated in one place. Part of the summary, articles 1, 18 and 19 all contain information relating to the constitution and its use. This information has been consolidated to avoid repetition and produced as a new Article 1.
- 3.4** In addition, the Constitution Committee considered a new simplified format for recording officer delegations as detailed in the Appendix to this report

## **4. OTHER OPTIONS CONSIDERED**

No other options are proposed.

## **5. RESOURCE IMPLICATIONS**

There are no resource implications relating to the recommendation.

## 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
Non-compliance with legislation	Adoption of an appropriate scheme of delegation to officers to enable functions to be carried out in accordance with legislation.

## 7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT

No assessment is required in respect of this report.

## 9. CRIME AND DISORDER IMPLICATIONS

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

## 10. COMMENTS OF FINANCE SECTION

There are no financial implications resulting from this report.

## 11. COMMENTS OF LEGAL AND DEMOCARATIC SERVICES

The proposed amendments are required to ensure the Council is able to carry out its functions and the content of the Constitution is relevant and up to date.

## 12. COMMENTS OF OTHER RELEVANT SERVICE MANAGERS

None relevant

## 13. APPENDIX

Reports to Constitution Committee – 23<sup>rd</sup> September 2013  
Minutes of Constitution Committee meeting –23<sup>rd</sup> September 2013