

# MINUTES

CONSTITUTION COMMITTEE  
MONDAY, 22 MAY 2017



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## COMMITTEE MEMBERS PRESENT

Councillor Lynda Coutts  
Councillor Ian Stokes  
Councillor Mrs Brenda Sumner (Chairman)  
Councillor Hannah Westropp (Vice-Chairman)

## OTHER MEMBERS

Leader of the Council Cabinet Member HR and Cultural Services  
(Councillor Matthew Lee)  
Deputy Leader Cabinet Member Business Transformation and Commissioning  
(Councillor Kelham Cooke)  
Cabinet Member Retail and Visitor Economy (Councillor Nick Robins)  
Cabinet Member Communities and Wellbeing (Councillor Rosemary Woolley)

## OFFICERS

Executive Manager Corporate (Lucy Youles)  
Executive Manager Commercial (Judith Davids)  
Business Manager (Elaine Pepper)  
Democratic Officer (Lucy Bonshor)

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## 16. APOLOGIES

An apology for absence was received from Councillor Bob Sampson.

## 17. DISCLOSURE OF INTERESTS

None disclosed.

## 18. MINUTES OF THE MEETING HELD ON 13TH MARCH 2017

Noted.

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## 19. AMENDMENTS TO THE CONSTITUTION

### Development Management Committee

#### Decision:

***The Constitution Committee recommends to Council that the name of the Development Control Committee is changed to the Development Management Committee and that the Constitution is amended to reflect the change.***

Report LDS214 circulated to Members proposed the change of name from Development Control Committee to Development Management Committee. The system of town and country planning through which local authorities regulated land use and buildings was called either development control or development management and development management more adequately reflected the work undertaken by the Committee.

It was proposed, seconded and agreed to change the name of the Development Control Committee to the Development Management Committee.

### Employment Committee

#### Decision:

***That the Constitution Committee recommends to Council that the Constitution is amended to include a new Article 13 – Employment Committee as set out in appendix A to report LDS216 and that subsequent consequential changes relating to the numbering of the Articles in the Constitution and the deletion of the Chief Executive's Appraisal and Remuneration Panels are agreed also that the number of members of the Committee be seven (four conservative representatives and one representative from each of the other three groups) with subsequent consequential amendments.***

The Leader of the Council introduced the report to the Committee. The Employment Committee would deal with strategic staffing issues and would work to develop the People Strategy helping to recruit and retain the best staff. The Committee would look at the senior officers of the council and review the senior management structure and oversee how that structure operates.

The Executive Manager, Corporate referred to how employment issues were currently dealt with some functions being for full Council, the Chief Executive's Performance appraisal and Remuneration panels, Cabinet Members or delegated to officers. The functions of the performance appraisal and remuneration panels would be part of the Employment Committee remit and would be deleted from the Constitution, the Appeal Panel with subsequent consequential amendments would remain.

Although the report referred to having a membership of five, perhaps seven members would be more appropriate for the Committee and this would need approval at Council.

The Executive Manager Commercial then briefly highlighted points within the terms of reference for the committee such as the recruitment and performance of Chief Executive together with Strategic Directors and Statutory Officers. One factor was the local pay award and the local pay policy and the new Committee would oversee and agree on an annual basis this critical piece of work. Other issues included the promotion of equal opportunities in employment and the "sign-off" of key information such as Gender Pay reporting.

The Leader then referred to the membership of the Committee. Having 10 members would be impractical and could be very intimidating and he felt that seven was an ideal number which would be made up of 4 conservatives and 3 opposition members, it was important to have cross party agreement and if the Committee agreed the change the Council would vote to have political balance taken out of the terms of reference.

One Member asked how many times the new Committee would meet, would these be fixed meetings within the meeting calendar or ad hoc. The Leader replied that it would be up to the Committee but felt that it would be a mixture of both. If agreed at Council it would be worked through with officers and a new calendar would be issued.

It was stated that no Members who sat on the Employment Committee would be allowed to sit on the Appeals panel whose current membership was Councillors' Goral, King and Robins.

It was proposed, seconded and agreed that the Committee recommended to Council the inclusion of a new Article 13 – Employment Committee as set out in Appendix A and subsequent consequential changes relating to the number of Articles in the Constitution and the deletion of the Chief Executive's Appraisal and Remuneration Panels and that the Membership of the new Committee be seven.

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

One Member asked to have an up to date hard copy of the Constitution. Members were referred to the decision made in 2015 where an electronic copy of the updated Constitution would be available to Members via the app on their iPad. Although a hard copy could be supplied on request it would not be in an updateable format.

Members were also informed that a further meeting of the Constitution Committee may be required before the next Council meeting on 15<sup>th</sup> June 2017.

**21. CLOSE OF MEETING**

The meeting closed at 10.45am.



## CONSTITUTION COMMITTEE

### Report of: Chairman of the Development Control Committee Councillor Martin Wilkins

Report to:	<b>CONSTITUTION COMMITTEE</b>
Date:	<b>22<sup>nd</sup> May 2017</b>
Subject:	<b>Constitution Amendment - Development Management Report LDS214</b>

<b>Decision Proposal:</b>	Recommendation to Council
<b>Relevant Cabinet Member:</b>	Councillor Kelham Cooke – Cabinet Member for Business Transformation and Commissioning including Governance
<b>Report author:</b>	Lucy Youles – Executive Manager Corporate e-mail: <a href="mailto:l.youles@southkesteven.gov.uk">l.youles@southkesteven.gov.uk</a> , Tel: 014764016105
<b>Reviewed by:</b>	Steve Ingram – Strategic Director, Development and Growth e-mail: <a href="mailto:s.ingram@southkesteven.gov.uk">s.ingram@southkesteven.gov.uk</a> , Tel: 01476406007
<b>Signed off by:</b>	

### SUMMARY

The report concerns the proposed amendment to the Constitution Committee relating to the change of name from Development Control Committee to Development Management Committee.

### RECOMMENDATION

It is recommended that the Constitution Committee recommends to Council that the name of the Development Control Committee is changed to the Development Management Committee and the amendment to the Constitution relating to the change is approved.

## **1. BACKGROUND TO REPORT;**

- 1.1** The terminology used by the Council to describe the service offered by the Council to regulate planning has been changed from development control to development management. This has led to inconsistent use of terminology. The purpose for the change at the recommendation above is to rationalise the terminology used for the committee to align with the current terminology used for the service provision
- 1.2** Councils throughout the country use the terminology “development control” or “development management” to describe the system of town and country planning through which local authorities regulate land use and buildings. Where an authority provides a development management service, the committee name mirrors the name of the service provision.
- 1.3** The Department of Communities and Local Government and the Planning Advisory Service have defined development management as the “end-to-end management of the delivery chain for sustainable development” and “an integral part of the spatial planning process putting spatial development plans into action and seeking to achieve good design and sustainable development”. Both definitions go beyond development control and more adequately reflect the service provided and the role of the committee.

## **2. OTHER OPTIONS CONSIDERED**

No other options have been considered. The amendment proposed will align the terminology of the service provision and the relevant committee.

## **3. RESOURCE IMPLICATIONS**

There are no resource implications relating to this report

## **4. 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</b>	<b>Risk</b>	<b>Action / Controls</b>
None		

## **5. ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY & DIVERSITY)**

None.

**6. CRIME AND DISORDER IMPLICATIONS**

None.

**7. COMMENTS OF FINANCIAL SERVICES**

There are no financial impacts relating to the proposed amendment to the Constitution.

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

Development Management is an integral part of the spatial planning system operated by local authorities and is based on the provisions of the Planning and Compulsory Purchase Act 2004. Given the definitions outlined in the report, the term "development management" more accurately reflects the service provision and the work of the committee.

**9. COMMENTS OF OTHER RELEVANT SERVICES**

**10. APPENDICES**

None

**11. BACKGROUND PAPERS**

The Constitution

<http://moderngov.southkesteven.gov.uk/ieListDocuments.aspx?MId=3407>





## CONSTITUTION COMMITTEE

**Report of: Councillor Matthew Lee  
Leader of the Council and Cabinet Member for Human Resources and  
Cultural Services**

Report to:	<b>CONSTITUTION COMMITTEE</b>
Date:	<b>22<sup>nd</sup> May 2017</b>
Subject:	<b>Amendments to the Constitution – Employment Committee - Report Number LDS216</b>

<b>Decision Proposal:</b>	Recommendation to Council
<b>Relevant Cabinet Member:</b>	Councillor Matthew Lee – Leader of the Council and Cabinet Member for Human Resources and Cultural Services
<b>Report authors:</b>	Lucy Youles – Executive Manager, Corporate e-mail: <a href="mailto:l.youles@southkesteven.gov.uk">l.youles@southkesteven.gov.uk</a> Tel: 01476 406105  Judith Davids – Executive Manager, Commercial e-mail: <a href="mailto:j.davids@southkesteven.gov.uk">j.davids@southkesteven.gov.uk</a> Tel: 01476 40
<b>Reviewed by:</b>	Daren Turner – Strategic Director e-mail: <a href="mailto:d.turner@southkesteven.gov.uk">d.turner@southkesteven.gov.uk</a>

### SUMMARY

This report sets out the proposals for the introduction of a committee of the Council to be known as the Employment Committee to consider issues relating to the employment of Council staff. The terms of reference of the proposed committee and the procedures under which the committee will operate are set out in the Appendix A of this report. The Constitution Committee is asked to consider making the recommendation to Council.

## RECOMMENDATION

**The Constitution Committee recommends to Council that the Constitution is amended to include a new Article 13 – Employment Committee as set out in the Appendix A to this report and that the subsequent consequential changes relating to the numbering of Articles in the Constitution and the deletion of the Chief Executive's Appraisal and Remuneration Panels are agreed.**

## 1. BACKGROUND TO REPORT

- 1.1 Since the introduction of arrangements for and the establishment of executive functions, the Council has carried out the functions relating to employment matters variously through decisions of full council, chief executive panels, delegations as matters of local choice and the adoption of standing orders. The Council has adopted standing orders relating to the appointment, disciplinary action and dismissal of staff. Those standing orders are mandatory and set out the legal requirement for arrangements relating to staff employed by the Council. Where any employment decision, which is not delegated to the head of paid service or determined as a matter of local choice, is required, that decision has been a matter for the Council to determine.
- 1.2 The proposal for an Employment Committee set out in the Appendix A to this report confirms the membership requirements of 5 Members representing the political proportionality of the Council. The Officer Employment Procedure Rules require the involvement of the relevant independent person in respect of disciplinary procedures relating to the employment of the statutory officers, the head of paid services, the chief finance officer and the monitoring officer. The independent person may be required to attend the meetings of the Committee as required.
- 1.3 The terms of reference of the proposed Committee, in respect of issues relating to appointment, discipline and dismissal of staff, require compliance with the Officer Employment Procedure Rules.
- 1.4 The Council has established panels of Members to carry out performance appraisals, consider remuneration and determine appeals relating to the employment of a chief executive. The proposals for an Employment Committee include the functions relating to the chief executive performance appraisals and remuneration. Any determination of an appeal relating to a decision of the Committee on performance or remuneration should be carried out by other Members who are not Members of the Employment Committee. The requirement for the current Appeals Panel could remain in place to consider appeals against decisions made by the Employment Committee. If the terms of reference of the Employment Committee are approved by Council, the provision for the Panels should be deleted from the Constitution.
- 1.5 In addition, it is proposed that the Employment Committee will undertake various functions required by virtue of the Local Government Act 1972 which have not otherwise been delegated as matters of local choice or delegated to the post of

head of paid service. The functions proposed are as set out at clause 13.3.4 of the Appendix.

## **2. OTHER OPTIONS CONSIDERED**

**2.1** The Council has operated employment functions through various means since the introduction of executive arrangements. The proposals in this report take into account the existing operations and provide an opportunity to rationalise many of the functions as the responsibility of one committee without the requirement to call a meeting of full Council.

## **3. RESOURCE IMPLICATIONS**

The Committee will be administered by Democratic Services officers within existing budgets. Consideration will need to be given to the level of resource required under the proposed new committee and will be reviewed after a period of operation.

## **4. RISK AND MITIGATION**

There are no significant risks associated with the proposals. The proposals provide an opportunity to mitigate the risks of full council making decisions on matters which have not previously been considered by a committee of Members.

<b>Category</b>	<b>Risk</b>	<b>Action / Controls</b>

## **5. ISSUES ARISING FROM IMPACT ANALYSIS**

Equality analysis has been carried a copy of the initial assessment is attached to this report as Appendix B

## **6. CRIME AND DISORDER IMPLICATIONS**

There are no crime and order implications relating to this report.

## **7. COMMENTS OF FINANCIAL SERVICES**

## **8. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

S.112 of the Local Government Act 1972 provides that the local authority shall appoint such officers as it considers necessary for the proper discharge of its functions. A local authority is required to do this in accordance with the provisions of the Local Government and Housing Act 1989. This Act requires the appointment of statutory officers and the adoption of standing orders with respect to staff. Standing orders have been adopted by this Council as set out

in the Local Authorities (Standing Orders) (England) Regulations 2001 and the Officer Employment Procedure Rules in the Constitution. Those standing orders allow for the provision of a committee of members of the council to determine matters included in the proposed terms of reference detailed at the Appendix A to this report. Such a committee of the Council must be properly established and included in the Constitution.

## **9. COMMENTS OF OTHER RELEVANT SERVICES – People and Organisational Development**

The cost of staff represents a significant proportion of the Council's budget. The establishment of a single committee will provide a focal point for the discussion and consideration of employment matters, and will give an opportunity to ensure greater consistency and transparency in this important area.

## **10. APPENDICES**

Appendix A - Proposed new Article 13 of the Constitution

Appendix B – Initial Equality Analysis

## **11. BACKGROUND PAPERS**

The Constitution

<http://moderngov.southkesteven.gov.uk/ieListDocuments.aspx?MId=3407>

## **Appendix A**

### **Article 13**

#### **Employment Committee**

The Council will establish an Employment Committee to discharge the functions set out below.

##### **13.1 Membership**

- (i) The Employment Committee will be composed of 5 Councillors to be appointed annually at the annual Council meeting.
- (ii) The membership of the Employment Committee will comply with the political balance rules set out in s.15 of the Local Government and Housing Act 1989 and must include at least one Member of the Cabinet.
- (iii) Membership of the Committee will from time to time as and when required include the involvement of the relevant appointed independent person as required by Officer Employment Procedure Rules.

##### **13.2 Meetings of the Committee**

- (i) The Employment Committee will meet as frequently as it requires to discharge its responsibilities.

##### **13.3 Chairman and Vice Chairman**

- (i) At the Annual Meeting, the Council shall appoint the Chairman and Vice-Chairman of the Employment Committee.
- (ii) If the Chairman or Vice-Chairman resigns by giving written notice of resignation to the Chief Executive, the committee shall, as the first item of business at the next ensuing meeting, elect a successor.
- (iii) The Chairman, if present, shall preside.
- (iv) If the Chairman is absent, the Vice-Chairman shall preside.
- (v) If the Chairman and Vice-Chairman are absent, the Committee shall elect one of the members present as Chairman of the meeting.

#### **13.4 Terms of Reference**

**13.4.1** Subject to Officer Employment Procedure Rules set out in this Constitution, and in consultation with the relevant independent person where appropriate, the Committee shall meet:

- (i) To oversee the recruitment and selection process of the Council's Head of Paid Service and determine terms and conditions of employment and make recommendations to Council in this respect.
- (ii) To oversee the recruitment and selection process of Strategic Directors, the Monitoring Officer, Section 151 Officer and posts falling within the definition of Deputy Chief Officer in Section 2(1) of the Local Government & Housing Act 1989 and make recommendations to Council in this respect.
- (iii) To consider allegations concerning the conduct or capability of Statutory Officers and other Chief Officers in order to establish whether or not they are sufficiently well-founded and serious in content to justify investigation
- (iv) If appropriate, to suspend a Statutory Officer or other Chief Officer under the terms of the JNC Conditions of Service for Chief Executives or the JNC Conditions of Service for Chief Officers
- (v) To appoint an external investigator to carry out an investigation on behalf of the Committee
- (vi) To receive and consider any report of an investigator, and if appropriate hold a capability or disciplinary hearing and following any capability and/or disciplinary hearing, to determine a course of action (up to and including dismissal) within the Council's power under law and within its procedures
- (vii) To dismiss Chief Officers, the Monitoring Officer, Section 151 Officer and posts falling within the definition of Deputy Chief Officer in Section 2(1) of the Local Government & Housing Act 1989
- (viii) To settle all matters relating to the above appointments or dismissals.
- (ix) To oversee the recruitment and selection process of the relevant independent person in accordance with the Localism Act 2011 and make recommendations to Council in that respect.

**13.4.2** The Committee will take decisions affecting the remuneration, terms and conditions of service of the Head of Paid Service.

**13.4.3** To undertake performance appraisals of the Head of Paid Service and contribute to Corporate Directors annual targets against which performance can be measured.

13.4.4 To discharge the Council's functions under Section 112 of the Local Government Act 1972 which have not otherwise been delegated, including advising the Council and Committees on:

- (i) the requirements for, and the availability of, human resources necessary for the fulfilment of the Council's policies;
- (ii) the promotion of good employee relations in the Council;
- (iii) matters of general employment and personnel concern to the Council;
- (iv) the promotion of equal opportunities for all employees of the Council, and in the Council's recruitment and selection procedures, and to monitor the effectiveness of such measures;
- (v) to consider matters affecting the efficient use of the Council's staff resources and to make recommendations to Cabinet;
- (vi) to review and recommend adoption of the People and Organisational Development Strategy and Annual Pay Policy prior to going to Council.

13.4.5 To keep under review local terms and conditions of employment for employees and make recommendations regarding the annual local pay award.

13.4.6 To consider and recommend appropriate actions where necessary in response to proposals relating to a) changes within the structure of the organisation which involves substantial changes in the responsibilities of Chief Officers.

13.4.7 To promote and pursue a policy of equal opportunities in employment and "sign-off" key information before it is published i.e. Gender Pay Reporting

13.4.8 To consider matters relating to superannuation, pensions and gratuities.

