



**SOUTH
KESTEVEN
DISTRICT
COUNCIL**



Constitution Committee

29 June 2020

Report of: Councillor Linda Wootten

Chairman of the Constitution
Committee

Constitution Review 2020

This report updates Members on the work of the Constitution Review Working Group, provides a revised project timetable for the review and asks the Committee to make recommendations to Council on revisions to:

- The Summary and Explanation
- Article 1: The Constitution
- Article 2: Members of the Council
- Article 3: Members of the public and the Council
- Article 4: Decision-making

Report Author

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Corporate Priority:

Administrative

Decision type:

Administrative

Wards:

All Wards

Reviewed by:

Jo Toomey, Head of Governance

12 June 2020

Approved by:

Shahin Ismail, Director of Law and Governance

16 June 2020

Signed off by:

Councillor Linda Wootten, Chairman of the
Constitution Committee

18 June 2020

Recommendation (s) to the decision maker (s)

1. The Committee:

- i) **Notes the progress made by the Constitution Review Working Group.**

- ii) **Approves the revised project plan for delivery of the review of the Constitution.**
- iii) **Recommends to Council the adoption of the revised Summary and Explanation and revised articles 1 to 4 as appended to this report.**

1 The Background to the Report

Constitution Working Group and Project Plan – update on actions and revisions

- 1.1 On 16 December 2020 the Constitution Committee agreed a project plan for the delivery of a comprehensive review of the Council’s Constitution. The Committee set up a Constitution Review Working Group composed of the Committee’s full membership to support the conduct of the review.
- 1.2 Since January 2020 the Constitution Review Working Group has met 4 times. Topics discussed by the working group include the role of Members, engagement by the public, Member training, the Committee’s own remit and rules of procedure and bringing clarity to definitions such as Key Decisions. The work done by the Working Group has been invaluable to test ideas and look at best practice across a range of other councils.
- 1.3 Work is also being undertaken by the Head of Governance to review the officer Scheme of Delegation. This exercise has been to review existing delegations and consider a refresh of them. This is an extensive piece of work and is ongoing and will be reported to a future meeting of the Committee.
- 1.4 The Covid-19 pandemic has meant that progress on the review was temporarily suspended to support urgent decision-making and the establishment of arrangements for remote committee meetings. The project plan has now been revised and is attached as Appendix 1 to the report.

Proposed Constitutional Changes

- 1.5 A copy of the revised structure of the Constitution is attached as Appendix 2 to the report for Members’ information.

Revised Summary and Explanation

- 1.6 The changes set out in Appendix 3 to this report remove some cross references to other parts of the Constitution with a view to making the content stand alone. The language has also been reviewed to increase clarity and precision. The other changes that have been made remove duplications or contradictions.

Revised Article 1: The Constitution

- 1.7 The proposed revisions to Article 1 are shown as tracked changes in Appendix 4 to this report.
- 1.8 As with the summary and explanation, a key part of the proposed revisions is making the language used in the Article as clear as possible and to avoid the need to cross-reference. Duplications have been deleted and changes made to the language to improve its accessibility.
- 1.9 One deletion relates to those Council Procedure Rules that can and cannot be suspended. For clarity, those procedure rules that are not capable of being suspended will be highlighted within the Council Procedure Rules section.

- 1.10 A further addition recognises that the primary method for accessing the Constitution will be electronic, recognising improvements in technology and the dynamic nature of the document, including associated risks where hard copies are not updated.

Revised Article 2: Members of the Council

- 1.11 Appendix 5 to this report sets out the proposed revisions of Article 2. As with the other Articles, the aim has been to make the language clearer and more precise.
- 1.12 For those committees where training is mandatory, the minimum training requirements will be set out in the relevant article for that Committee. The Members' Allowance Scheme will also be removed from this section and stand within Part 9 as a key document in its' own right.
- 1.13 Other proposed changes within this Article include updated information about the next scheduled election for district councillors. Members of the working group also agreed it would be helpful for members of the public, to include a brief precis of when a by-election would be called.

Revised Article 3: Members of the public and the Council

- 1.14 Article 3: The 'members of the public and the Council' Article gives a brief overview of the different ways members of the public can engage with the Council as a corporate body and with its democratic processes. Full details of how members of the public can participate in meetings of the Council are set out within the relevant article to keep all relevant information about that Committee in one place.
- 1.15 The proposed revisions to Article 3 are attached as Appendix 6 to this report. In this instance a majority of the changes correct the language within the Constitution to ensure current arrangements are reflected.

Revised Article 4: Decision-making

- 1.16 Currently the content of a proposed revision to Article 4 is included as Article 17 of the Constitution, which includes principles of decision-making, definitions of different types of decision, access to information requirements and local choice functions. It is proposed that this Article is separated out.
- 1.17 To help provide context when reading the Articles related to each decision-making forum, some parts of the current Article 17 have been moved to Article 4. The proposed wording of a new Article 4 is set out in Appendix 7 to this report. Some of the Procedure Rules in Article 4 will be moved as set out in Appendix 7.
- 1.18 One subject that the working group has been considering is agreeing a value to identify what constitutes significant expenditure or saving in order for a decision to be defined as Key. South Kesteven District Council's current Constitution does not include a value, which can lead to uncertainty and inconsistency. Appendix 8 to this report sets out the different values used by a range of authorities Based on discussions and the consideration of the information provided, Members were not able to a reach a firm recommendation and were happy to consider this further on the basis of evidence from the Council's Section 151 Officer. The suggested figure in the proposed Article 4 of £189,330, which is the Official Journal of the European Union (OJEU) threshold for goods and services. This value aligns with limits in both the Council's Contract and Procurement Procedure Rules and Financial Regulations. To ensure the Constitution remains current, it is suggested that the monetary figure is not referenced, instead it would state that the definition of significant adopted by the Council was aligned to the OJEU financial threshold for goods and services.

2 Consultation and Feedback Received, Including Overview and Scrutiny

- 2.1 The review of the Constitution does not feed into the remit of any of the established overview and scrutiny committees however relevant Members and officers will be consulted as the Committee reviews specific articles. For example, in reviewing the Article related to the Planning Committee, the Constitution Review Working Group will engage with the Chairman of the Planning Committee, the relevant Cabinet Member and senior officers within whose remit that committee falls.
- 2.2 This report and the proposed changes set out within it have been considered by the Council's Corporate Management Team.

3 Available Options Considered

- 3.1 The Council has committed to a Constitution review and to do nothing would not be an option. The Council will receive, a series of reports over the coming months to overhaul the Constitution. Members can input to the detail, through the Constitution Committee.

4 Preferred Option

- 4.1 That the Committee agrees a set of recommendations for consideration by Council in order to progress the review of the Council's Constitution.

5 Reasons for the Recommendation (s)

- 5.1 The Council's Constitution is the focal point for its governance framework. A number of years have passed since a review of the document was last undertaken to ensure it was accurate and up to date.
- 5.2 It is good practice to review the Constitution to ensure it remains fit for purpose and has been recognised as a key piece of work to ensure strong, robust governance arrangements are in place.
- 5.3 In reviewing the Constitution, reference is being made to good practice examples of other councils and ensuring it is legally compliant as a framework within which the Council must operate.

6 Next Steps – Communication and Implementation of the Decision

- 6.1 Should the Committee be supportive of the proposed revised articles, they will be referred onwards to Council for approval.

7 Financial Implications

- 7.1 The suggested amendment to the financial limit in respect of key decision thresholds has been proposed having recognition of the other approved financial frameworks, specifically the Council's Financial Regulations and the Contract and Procurement Procedure Rules.

Financial Implications reviewed by: Richard Wyles, Interim Director of Finance

8 Legal and Governance Implications

- 8.1 Legal and governance implications are captured in the body of this report.

Legal Implications reviewed by: Jo Toomey, Head of Governance

9 Equality and Safeguarding Implications

- 9.1 There are no equality and safeguarding implications arising as a result of this report. The proposed revisions to the Constitution highlight the need to consider the equality and safeguarding implications of any decisions that are taken and taking action to mitigate against negative impacts where possible.

10 Risk and Mitigation

- 10.1 Risk has been considered in the preparation of this report. The Constitution is a key part of the Council's governance framework and if the document is not clear and robust it leaves the Council and its decisions open to challenge. The proposed revisions to the Constitution highlight the need to assess the risks of any decisions that are taken, mitigating those risks where possible, and managing them appropriately.

11 Community Safety Implications

- 11.1 There are no community safety implications arising as a result of this report. The proposed revisions to the Constitution highlight the need to assess the community safety implications of any decisions that are made.

12 How will the recommendations support South Kesteven District Council's declaration of a climate emergency?

- 12.1 Making copies of the Constitution available electronically as the primary method of publication has a positive carbon impact. The proposed revisions to the Constitution highlight the need to assess the carbon impact of any decisions that are made and identify possible ways to mitigate that impact.

13 Appendices

- 13.1 Appendix 1: Updated project plan
- 13.2 Appendix 2: Revised structure
- 13.3 Appendix 3: Revised Summary and Explanation (changes tracked)
- 13.4 Appendix 4: Revised Article 1: The Constitution (changes tracked)
- 13.5 Appendix 5: Revised Article 2: Members of the Council (changes tracked)
- 13.6 Appendix 6: Revised Article 3: Members of the public and the Council (changes tracked)
- 13.7 Appendix 7: Revised Article 4: Decision-making (changes tracked)
- 13.8 Appendix 8: Local authorities' definition of significant expenditure or saving when defining a Key Decision

Report Timeline:	Date of Publication on Forward Plan (if required)	Not applicable
	Previously Considered by: Constitution Committee	16 May 2020
	Final Decision date	16 July 2020