

Minutes

Constitution Committee

Monday, 10 January 2022, 10.30 am



SOUTH
KESTEVEN
DISTRICT
COUNCIL

**Council Chamber - South Kesteven House,
St. Peter's Hill, Grantham. NG31 6PZ**

Committee Members present

Councillor Mark Whittington (Chairman)
Councillor Ray Wootten (Vice-Chairman)
Councillor Ashley Baxter
Councillor David Bellamy
Councillor Paul Fellows
Councillor Breda-Rae Griffin
Councillor Susan Sandall
Councillor Mark Whittington (Chairman)
Councillor Ray Wootten (Vice-Chairman)

Other Members in attendance

Councillor Phil Dilks

Cabinet Members in attendance

Councillor Linda Wootten (Cabinet Member for Governance and Licensing)

Officers in attendance

Alan Robinson (Deputy Chief Executive/Monitoring Officer)
Graham Watts (Head of Democratic Services and Deputy Monitoring Officer)
Lucy Bonshor (Democratic Officer)

27. Apologies for absence

All Members of the Committee were present.

28. Disclosure of interests

None disclosed.

29. Minutes of the meeting held on 8 November 2021

The minutes of the meeting held on 8 November 2021 were proposed, seconded and **AGREED**.

A comment was made about the question asked by the Vice-Chairman at the last meeting in relation to signing up to the new Model Code of Conduct. Reference was made to the Council meeting held on 25 November 2021 and the explanation given there. There was not an expectation or requirement for Members to sign up to the new Code of Conduct, by signing the acceptance of office when they were elected that covered Members in relation to the new Model Code.

30. Updates on Actions from the previous meeting

The Chairman noted that the actions listed had been actioned or were being discussed at the meeting.

One Member asked for confirmation of the number of Lincolnshire Authorities that had adopted the new Model Code of Conduct. The Head of Democratic Services and Deputy Monitoring Officer stated that he had sent an email to Members. Lincolnshire County Council had not adopted the new Model Code as it was felt that the code that they currently had was in-line with the new Model Code. The Head of Democratic Services and Deputy Monitoring Officer would confirm numbers to Members outside of the meeting.

ACTION:

The Head of Democratic Services and Deputy Monitoring Officer to circulate to Committee Members the figures of those Lincolnshire Authorities who had adopted the new Model Code of Conduct.

31. Review of the Council's Constitution - Part 3 - Responsibility for Functions

The Chairman read out the three recommendations as contained within the report and stated that he proposed to deal with each recommendation separately.

The Head of Democratic Services and Deputy Monitoring Officer began by thanking Members for their participation in the engagement sessions that had been arranged in relation to the work done on the Responsibility for Functions document. He referred to the list of Officers and Members who had attended meetings in relation to the revised document and had helped develop it into the document before Members. Reference was also made to the Member workshops where explanations were given in relation to the different documents and which provided an opportunity for Members to feedback on the documents. A summary of the feedback received from the workshops was listed within the report and the Head of Democratic Services and Deputy Monitoring Officer highlighted various areas including:

- Positive comments about the process that had been undertaken and the presentation of the documents to help Members to navigate the changes made to the document in an open and transparent way.
- Questions about including a provision within the Officer delegations to ensure that Ward Members were informed of decisions made by officers exercising delegated powers which affected their ward.

The Head of Democratic Services and Deputy Monitoring Officer explained that if a provision was included, it would mean that all decisions made by officers would be notified to the Ward Member. Officers made a lot of operational decisions during the day which would entail a lot of email traffic to the Ward Member. It was noted that if an Officer was making a significant decision within a particular ward, then they should be having a dialogue with the Ward Member about that decision and this was something that would be followed up through CMT and the Senior Management Team.

- Questions were raised in relation to the delegation of powers to Police Community Support Officers regarding the enforcement of littering, waste and dog fouling and the issuing of fixed penalty notices.

The Head of Democratic Services and Deputy Monitoring Officer confirmed that it was within the Scheme of Delegation, although it was not currently authorised but it was there to provide flexibility if required.

During the workshops feedback had been given in relation to formatting, page numbering and referencing and these had been addressed, although it was noted that the page numbering would be done once the whole document was complete. Going forward it was anticipated that single pages would be able to be amended, without the need to print the whole document.

- Suggested amendments had been made in relation to the Executive functions section and two areas had been amalgamated into one and the table reformatted. Clarity had also been given to the wording in relation to individual Cabinet Members delegated authority and the difference between revenue and capital funding delegations had been emphasised and cross referenced with the Financial Procedure Rules.
- Questions had also been raised regarding the removal of enforcement action relating to failure to put a dog on a lead.

Failure to put a dog on a lead when requested was part of the current Public Spaces Protection Orders (PSPO's). There were several that related to animals and it was noted that PSPO's could cover wider issues. Enforcement of PSPO's came under the Neighbourhoods team part 12 of the new document.

- The terminology and status of the use of 'simple caution' was also raised. The definition of a 'simple caution' (once known as a formal police caution) was a formal warning that may be given by the enforcing authority (police, local authorities) to persons aged 18 or over who admit to committing an offence. The simple caution scheme was designed to provide a means of dealing with low-level, mainly first-time, offending without a prosecution.

The Member who has raised the question during the workshop wanted confirmation whether a caution given by an officer of the council had the same weight as a caution given by a member of the Police. It was confirmed that a 'simple caution' formed part of an offender's criminal record and may be referred to in future legal proceedings regardless of who issued it.

A question was asked in relation to surveillance and investigation within the Officer delegation to which the Head of Democratic Service and Deputy Monitoring Officer responded that it was section 31 in the new document.

A comment was made about including the political balance and actual names within the Constitution. It was felt that the position only should be included, rather than the name and that what was currently within the Constitution was incorrect. Another Member commented about whether there was a need for the inclusion of a detailed scheme of delegation for Cabinet positions, however, it was acknowledged that this was not something before the Committee at the present time.

The Head of Democratic Services and Deputy Monitoring Officer stated that it was only the Responsibility for Functions, Part 3 that would be going before Council at the end of month. The parts that the two Members had referred to, had not yet been reviewed by the Committee. The inclusion of names and the political balance would be recommended to be excluded when those sections were reviewed by the Committee.

Further discussion followed on the previous format of Constitution (lever arch format) and the inclusion of the Chairman in discussions for those aspects of the Constitution relevant to them particularly the Rules of Procedure.

Members were pleased with the progress that had been made to date and the opportunity to have a dialogue with the Head of Democratic Services and Deputy Monitoring Officer through the workshops about the documents before the Committee. The incremental approach taken in respect of the Constitution review was felt to be the best approach.

One Member sought confirmation that the review going forward would only be about tidying up the content of the Constitution and abiding by the law or changes to legislation. He also reiterated the need for Ward Members to be informed about any significant delegated officer decision which impacted their ward and gave examples where he was unaware of issues which he felt as Ward Member, he should have been notified of.

The Chairman also acknowledged that Ward Members should be made aware of decisions that affected their areas such as void properties and enforcement action.

More comments on the format and the number of hard copies that should be made available to Members of the final Constitution was raised. It was suggested that hard copies should be available in the Leaders and Oppositions office and the Members' Room but that Members should not expect to have a hard copy document. The most up to date copy would always be the one on line and that should be where Members were directed to. It was felt that any hard copy document, should be in a lever arch format whether that was A4 or A5 as had been the case in previous years. The possibility of having an aide memoire of the Constitution was also raised once the review had been completed.

The Chairman suggested that the format of the final Constitution be added as an agenda item to a future meeting of the Committee and that all Members be

consulted on the format of the final document, possibly by the use of a quick questionnaire.

ACTION

That the format of the final Constitution be added as an agenda item and that all Members are consulted on the format of the final document.

The proposal to note the engagement activity undertaken with Officers and Members in the development of the new 'Part 3 – Responsibility for Functions' section of the new Constitution was proposed, seconded and **AGREED**.

The Head of Democratic Services and Deputy Monitoring Officer referred to the three documents appended to the report, everything had been mapped and included explanations of why things had been removed or amended or any additions that had been made and the reasons for this. Appendix A was the document that would be recommended to Council on 27 January for approval subject to the approval of the Constitution Committee. Appendix B was the mapping document and listed those parts of the Constitution that had been lifted and moved to the new document and where additions, amendments or deletions had been made. Everything had been colour coded for ease of reference. Appendix C was the whole of the current Constitution and showed areas where parts of the Scheme of Delegation had been taken from as they were currently all over the document.

Members felt that not all documents should be sent to Council. Only a clean version of Part 3 – Responsibility for Functions should be attached with the other documents available as background papers. A proposal was made to amend the recommendation to include that any minor formatting, grammatical or typographical errors found before the date of Council on 27 January 2022 to be delegated to the Chairman of the Constitution Committee in consultation with the Head of Democratic Services and Deputy Monitoring Officer for amendment. This proposal was seconded.

Further discussion followed and it was suggested that the report to Council should refer to the questionnaire that would be going out to Members about the final format of the Constitution.

On being put to the vote the recommendation was **AGREED**.

RECOMMENDATION:

That the Constitution Committee recommends to Council the Part 3 – Responsibility for Functions document for approval and that any minor formatting, grammatical or typographical errors found before the date of Council on 27 January 2022 be delegated to the Chairman of the Constitution Committee in consultation with the Head of Democratic Services and Deputy Monitoring Officer for amendment.

Members were referred to paragraph 1 of the report which listed the new parts of the Constitution that Council had agreed on 30 September 2021. The

Responsibility for Functions section was the area that had taken the most time to complete as it was the most complicated.

The summary and explanation and Articles of the Constitution should involve copying and pasting and should not be too time consuming. It was proposed that the same mapping system and colour coding system was used for the remainder of the Constitution to ensure that everything had been covered and any amendments or deletions were explained and nothing was missed.

The Rules of Procedure and Codes and Protocols would be an administrative process, tidying the document up and identifying duplications and contradictions within the document. There would be areas which would need to be changed in order for the document to make sense. Any changes would be documented and mapped so it was clear where changes had been made and the reasons for them.

The Code of Conduct had already been dealt with and the Members' Allowance Scheme was as it was within the Constitution. A separate review of the Members' Allowance Scheme would be undertaken by the Independent Remuneration Panel. The next focus would be on the Rules of Procedure and Codes and Protocols. Officers would be working on them at the same time but they would come separately before the Committee. The same engagement would take place with Members with the opportunity for Members to provide feedback. Sessions would be arranged for the individual parts such as the Rules of Procedure and a separate session for Codes and Protocols and a timeline would be created to get the revised Constitution to the AGM in May 2022.

The Chairman stated that currently there were conflicts within the Rules of Procedure, where the interpretation was not clear. There was the potential for the interpretation of the rules to be contentious and it was felt that debate between both the administration and opposition groups would be required for agreement to be reached. The Chairman felt that these should be looked at early to enable enough time for them to be addressed.

The Financial Management Rules and Contract Procurement Rules were revised regularly. However, there may be contentious or grey areas to which Officers needed to be present to advise Members and give explanations.

Questions were asked about the Rules of Procedures and the variations between the different Committees. The following points were made:

- Each Committee would be looked at individually.
- More uniformity would be agreed where possible.
- Terms of Reference for each Committee would be checked to make sure they were still relevant and reflected the responsibilities for that Committee.
- Possible changes/amendments to go to individual committees for feedback where appropriate.
- Opportunity to look at the rules of procedure to ensure consistency within the Constitution for both Members and Officers.
- Chance to address contradictions within the Constitution.
- Separation needed between each section under review.

- Possibility for some areas to be more contentious than others.
- Engagement sessions key to enable a clear and understandable document to be produced for the AGM in May 2022.
- Areas with the potential to be contentious to be dealt with first.
- Which Committee looked at which procedure rules.
- Amendments necessary from the Planning Services Review and Scrutiny Review would be built into the Constitution Review at a later date.

The Head of Democratic Services and Deputy Monitoring Officer stated that a timetable and consultation sessions would be drafted for the Committee detailing the work to be done.

Members agreed with the proposed process going forward based on what had been undertaken to date. This proposal was seconded and on being put to the vote unanimously **AGREED**.

32. Any other business which the Chairman, by reasons of special circumstances, decides is urgent

None.

33. Close of Meeting

The meeting closed at 12 noon.