



**SOUTH  
KESTEVEN  
DISTRICT  
COUNCIL**

# Constitution Committee

10 January 2022

Report by Councillor Linda Wootten, Cabinet Member for Corporate Governance and Licensing



## Review of the Council's Constitution

This report provides the Constitution Committee with an update on the review of the Council's Constitution and an opportunity to recommend a new 'Part 3 – Responsibility for Functions' section of the Constitution to Full Council for approval.

### Report Author

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Corporate Priority:	Decision type:	Wards:
<b>A High Performing Council</b>	<b>Governance</b>	<b>All Wards</b>

<b>Reviewed by:</b>	Graham Watts (Head of Democratic Services)	22 December 2021
<b>Approved by:</b>	Alan Robinson (Deputy Chief Executive)	22 December 2021
<b>Signed off by:</b>	Councillor Linda Wootten (Cabinet Member for Corporate Governance and Licensing)	22 December 2021

### Recommendation (s) to the decision maker (s)

**That Constitution Committee:**

- Notes the engagement activity undertaken with Officers and Members in the development of the new 'Part 3 – Responsibility for Functions' section of the new Constitution.**
- Recommends the new 'Part 3 – Responsibility for Functions' document to Full Council for approval.**
- Agrees the process for the next stage of the Constitution Review.**

# **1 The Background to the Report**

1.1 At its meeting on 30 September 2021 Council agreed to undertake a review of the Constitution, based upon a new format consisting of the following parts:

- 1) Summary and Explanation
- 2) Articles of the Constitution
- 3) Responsibility for Functions
- 4) Rules of Procedure
- 5) Codes and Protocols
- 6) Members' Allowances Scheme
- 7) Management Structure

1.2 Council agreed that the Constitution would be reviewed in sections, commencing with Part 3 – Responsibility for Functions, which sets out the Council's scheme of delegation.

1.3 The basis of reviewing this element of the Constitution was to establish how the document is currently interpreted from the perspective of Cabinet, individual Cabinet Members, the Council's Corporate Management Team and wider Senior Management Team, together with all elected members of the Council, and ensure that it is up to date.

## **2 Part 3 – Responsibility for Functions**

2.1 The first aspect of this review has been the physical transfer of delegations from various points in the current Constitution document to the new 'Responsibility for Functions' document. This aspect of the document has been split into three parts as follows:

- Part 3(a) Council Functions (Council and decision-making delegations to Committees)
- Part 3(b) Executive Functions (Cabinet and Cabinet Members)
- Part 3(c) Delegated Powers to Officers

2.2 Reviewing Part 3(c) (Delegated Powers to Officers) has been relatively time consuming as the current Constitution sets out services and respective decision-making powers based predominantly at Assistant Director level against an officer structure which is out of date. A significant amount of work has therefore taken place to review the current scheme of delegation to officers, but ensure that any changes are mapped in order that the process is as open and transparent as possible.

2.3 In developing the revised document, separate meetings have been held with the following Members and Officers:

- Chairman of the Constitution Committee
- Cabinet Member for Governance and Licensing
- Leader of the Council
- Leader of the Opposition
- Leader of the Labour Group
- Chief Executive

- Deputy Chief Executive
- Director of Commercial and Operations
- Director of Growth and Culture
- Director of Housing and Property
- Assistant Director of Finance
- Assistant Director of Planning
- Assistant Director of Operations and Public Protection
- The Licensing Team
- The Building Control Team
- Corporate Management Team

2.4 These meetings were fundamental in terms of developing the new document and ensuring that the Council's scheme of delegation reflects both the Council's legislative responsibilities but also current local practice.

2.5 In addition, five workshops were held on 20 and 21 December 2021 which 19 Members attended. A summary of the feedback received from these sessions is set out below:

- Positive comments regarding the process that has been undertaken, the presentation of the mapping documentation to clearly show where additions, amendments and deletions have occurred and the engagement undertaken with Members.
- Questions raised as to the inclusion of provision under the Officer delegations of ensuring that Ward Members are informed of decisions made by officers in exercising delegated powers.
- Questions 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 in terms of whether this delegation is currently utilised or has been utilised in the past.
- Suggested amendments to formatting, page numbering and referencing.
- Suggested amendments to the Executive functions section to amalgamate two areas of delegation into one, removing duplication.
- Suggested amendment to the wording in the Executive functions section to emphasise individual Cabinet Member delegated authority as opposed to decision-making by Cabinet as a whole.
- Suggested amendment to the wording in the Executive functions section to emphasise the different delegations relating to revenue and capital funding.
- Questions raised regarding the removal of enforcement action relating to failure to put a dog on a lead when requested to do so, under the Animals section of the Officer delegations.
- Questions raised regarding the use of 'simple cautions' and the status of such cautions in respect of the surveillance and investigation section under Officer delegations.

- 2.6 Suggestions made at these sessions have resulted in amendments to the 'Part 3 – Responsibility for Functions' document. Answers to the questions raised will be provided to the Committee before or at the meeting on 10 January 2022.
- 2.7 Alongside the new 'Part 3 – Responsibility for Functions document', a 'working version' of the existing Constitution has been produced which includes coloured highlighted sections, with **green** representing those elements that have been transferred into the new document and **red** representing those elements that have been removed.
- 2.8 An additional 'mapping document' includes a table which identifies where those elements highlighted as green have been moved to in the new document and the reason why those highlighted red have been removed.
- 2.9 In addition, areas in the new document that have either been added or amended, in terms of how they appear in the current Constitution, are also colour coded with a commentary to explain the addition or change.
- 2.10 The aim of these working and mapping documents is to attempt to clearly show and demonstrate that no elements of the current Constitution have been missed, highlight those areas where changes have occurred and, importantly, the reason for any changes.
- 2.11 Feedback to date has been extremely positive, with Members stating that they have found the mapping document to be very transparent and are supportive of the new version of the document.
- 2.12 A review of the Financial Procedure Rules and Contract Procedure Rules has taken place alongside this element of the review. It was highlighted that these documents are subject to regular review and did not directly impact the 'Part 3 – Responsibility for Functions' document, with respective delegations being signposted to specific thresholds set out in the Financial Procedure Rules and Contract Procedure Rules which represent current practice.

### **3 Next Steps**

- 3.1 Subject to Full Council approving the 'Part 3 – Responsibility for Functions' section of the new Constitution, work will commence to review the remaining sections of the Constitution. In many instances this will be an administrative process in terms of transferring and realigning parts of the existing Constitution into the revised format of the new Constitution, but taking the opportunity to undertake an element of housekeeping in terms of updating out of date information or addressing some contradictions throughout the document. Elements such as the Member Code of Conduct and Members' Allowances Scheme, for example, will simply be re-aligned without the need for any amendments or wider engagement with Members or Officers.
- 3.2 It is proposed that the same model used for developing the new Part 3 – Responsibility for Functions section of the Constitution will be adopted for Part 4 (Rules of Procedure) and Part 5 (Codes and Protocols). These Parts will be developed at the same time but considered separately, with the same engagement with Members and Officers proposed to be undertaken together with the same mapping and working documents. This work will take place in January to April, with a final meeting of Constitution Committee taking place early in May to recommend a complete, final version of a new Constitution to Full Council at its Annual General Meeting on 26 May 2022.

3.3 Elements of the Constitutional review that will be considered separately by the Constitution Committee and, subsequently, Full Council are proposed changes to the Constitution as part of the Planning Review and Scrutiny Review. Due to the specific nature of the recommendations included as part of these reviews which may require Constitutional amendments, and their respective timetable for implementation, it has been agreed that these will sit outside the scope of the comprehensive review of the Constitution. Any changes to the delegations associated with the Planning Committee or amendments to the Scrutiny Functions following Council approval as a result of the Planning Review or Scrutiny Review can be incorporated into new Constitution at the relevant time.

## **4 Financial Implications**

4.1 There are no financial implications arising from this report.

**Financial Implications reviewed by: Richard Wyles, Section 151 Officer**

## **5 Legal and Governance Implications**

5.1 Legal and governance implications are set out in the body of the report.

**Legal Implications reviewed by: Graham Watts, Deputy Monitoring Officer**

## **6 Equality and Safeguarding Implications**

6.1 There are no equality or safeguarding implications arising from this report.

## **7 Risk and Mitigation**

7.1 The Council's Constitution is the principal document setting out how the Authority operates, how decisions are made and the procedures which are followed. It is essential, therefore, that the document is easy to follow, understand and interpret which this review seeks to achieve.

## **8 Appendices**

Appendix A – Part 3 – Responsibility for Functions

Appendix B – Mapping Document

Appendix C – Working version of the current Constitution