



East
Northamptonshire
Council

Policy and Resources Committee– 5 December 2011

Changes to the Constitution

Purpose of report

To seek Member approval for changes to the council's constitution to strengthen the appointment and reporting arrangements in relation to statutory officers and provide clarity in relation to standing agenda items for council meetings.

Attachment(s)

None

1.0 Background

1.1 The council's constitution provides an operational framework for the council's meetings and the relationship between officers and members. As such, it is a 'living' document which needs to evolve to meet changing circumstances. Some of these changes will arise from legislation whilst others will arise from the need to clarify the position to be taken in new circumstances. This report seeks to make changes in response to the latter. A further report will be presented in the spring to consider the changes needed as a result of the Localism Bill, particularly in relation to standards arrangements.

2.0 Proposed Changes

2.1 Members will be aware that, as a result of concerns expressed in relation to recent changes in statutory officers, it was proposed at the last Policy and Resources Committee that changes to the Constitution would be proposed to ensure clarity in relation to future decisions. It is proposed to make the following changes to Part 4.7:

2.1.1 Insert at the end of Paragraph 2 the text in bold italics:

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

(a) draw up a statement specifying:

- i) the duties of the officer concerned (the job description); and
- ii) any qualifications or qualities to be sought in the person to be appointed (the person specification);

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;

(c) make arrangements for a copy of the statement mentioned in paragraph (i) to be sent to any person on request.

Where an appointment is not to be made via the route described above, the appointment will be made by recommendation to a meeting of full council.

2.1.2 Insert new paragraph 9 as follows (and renumber all existing subsequent paragraphs):

9. Any changes to the agreed arrangements for Chief Officers should be reported by the Monitoring Officer to all Members as quickly as possible (and at the latest within three working days)

2.2 Concern has also been expressed by some Members in relation to the governance risks posed by the current position whereby the Head of Paid Service also serving as Chief Finance Officer /S151 Officer. This alternative is currently permitted by Article 11.02 (b)) of Part 2 of the Constitution. In this instance, this position was agreed as a sort term solution only because there no other alternative was available to the council within the timeframe of filling the post of S151 Officer within 'days' as per the legal advice we received. It was a case of balancing the known risks of legal non compliance by not having a designated S151 Officer with potential governance risks of the post being held by the Head of Paid Service

2.2.1 It is possible to amend Article 11.02 (b) to read as below but it should be noted that this could create further risks to the council at a future date of not having this potential short-term solution available:

Restrictions on functions. The Head of Paid Service may not be the Monitoring Officer ~~or but may hold the post of~~ Chief Finance Officer ~~if a qualified accountant.~~

2.3 Further changes to Part 4.1 are proposed in the light of concerns expressed over the content of the agenda for a recent council meeting.

2.3.1 The following change highlighted in red to paragraph 9.1 (a) will provide clarity that public speaking time will be provided at all council and committee meetings:

*Members of the public who have given notice of their intention to speak may address the Council at **ordinary all** meetings of the Council and committees in accordance with the Council's published procedures. A period of not more than 15 minutes will be allowed before the formal business of the meeting during which members of the public may speak for up to 3 minutes on a matter due for consideration at the meeting. A 'member of the public' includes a local resident, a Parish or Town Council representative and an applicant (in the case of the Development Control Committee, this can be an agent). This right reflects Articles 6 and 10 of the European Convention of Human Rights (Right to be heard and Freedom of Expression).*

2.3.2 The following insertions to paragraph 10.2 highlighted in red will provide clarity that members' questions may be tabled at all council meetings:

*Questions on notice at **all full Council meetings***

Subject to Rule 10.4, a Member of the Council may ask:

- the Chairman;*
- the Leader; or*
- the Chairman of any committee or sub-committee or Board*

a question on any matter in relation to which the Council has powers or duties or which affects East Northamptonshire.

3.0 Equality and Diversity Implications

3.1 There are no known equalities issues arising from this report.

4.0 Legal Implications

4.1 There are no legal implications arising from this report.

5.0 Risk Management

5.1 There are no significant risks arising from this report.

6.0 Financial Implications

6.1 There are no financial implications arising from this report.

7.0 Corporate Outcomes

7.1 The following outcomes are applicable:-

- Effective Management

8.0 Recommendation

8.1 The committee is requested to recommend that Council:

- a) approves the addition of the wording in paragraphs 2.1.1, 2.1.2, 2.3.1 and 2.3.2 to the Council's Constitution, and
- b) considers the change proposed in 2.2.1.

[Reason – to ensure that the council's constitution is responsive to the changing working environment]

Legal	Power: Local Government Acts 1972 and 2000; The Local Authorities (Alternative Arrangements (England) Regulations 2001				
	Other considerations: Council's Constitution				
Background Papers: None					
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Date: 22 September 2011					
CFO		MO		CX	

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