



## Council – 17 October 2016

### Amendments to the Constitution

#### Purpose of report

This report proposes a number of amendments to the Constitution to reflect changes in legislation or proposed council processes.

#### Attachment(s)

Appendix A: Proposed changes to the Constitution

#### 1.0 Background

1.1 The Monitoring Officer has a responsibility to regularly review the Constitution in the light of the changing context in which the council operates, including changes in legislation. A full review of the Constitution was undertaken in 2015 by Internal Audit and the council's legal advisors, LGSS, and a significant number of changes were implemented as a result. This report proposes a much smaller number of changes, the detail of which is outlined below and detailed in Appendix A.

#### 2.0 Proposed changes to the Constitution

##### 2.1 Part 3.1: Responsibility for Functions

2.1.1 Change the preamble to recognise that occasionally, because of the implications for the whole district, it is considered more appropriate for a decision or policy to be made by (full) Council rather than by a Committee. In the light of a recent court case which issues arose when a committee considered a matter which had been delegated to a panel for determination, it is proposed to amending section 3.1 to reserve the right for any matter, formally delegated to Policy and Resources (but not sub-committee) or Planning Policy Committee to be referred to Council at the request of that Committee for determination.

##### 2.2 Part 3.2: Scheme of Delegation to Officers

2.2.1 It is proposed to remove the delegated authority to Planning Officers within Part A 1a to determine any applications in relation to properties designated as Assets of Community Value by this council so that they are considered by the Planning Management Committee without the need for call in by the ward councillor. It is also proposed to harmonise the delegation in relation to major applications regardless of location (urban or rural) as outlined in Appendix A.

2.2.2 Changes are needed to Part B which covers the delegations to Environmental Services Officers to reflect regulation changes. :

- a) *Food Safety and Hygiene (England) Regulations 2013* which enacted some changes to the European legislation covering food safety. It authorises the local authority to be a competent food authority and gives officers powers to serve hygiene improvement and hygiene prohibition notices, previously called improvement and prohibition notices. There are no substantial changes within the legislation, just some terminology changes and changes to food sampling protocols.
- b) *Food Information Regulations 2014* focuses on allergens. It requires all food businesses to ensure they know what ingredients are in all of the products and share this information with their customers. This legislation can be jointly enforced with Trading Standards.

2.3 Part 8: Terms of Reference. Changes to formally recognise current practice not explicitly considered by the Constitution as follows:

2.3.1 *Policy and Resources Committee.* Addition of delegated authority to agree the use of any underspend from the previous financial year and associated carry-forwards

2.3.2 *Finance Sub Committee.* Addition of delegated authority to agree the final sale details where a site has been identified by Council for disposal,

2.3.3 *Governance and Audit Committee.* Change the terms of reference to reflect the provisions under the Local Audit and Accountability Act by which external auditors may only be appointed by three prescribed routes – appointment by an independent panel or a joint panel operated across a number of councils or by a nominated body.

2.4 Finally I would like to note that I have appointed Lindsay Tomlinson as Deputy Monitoring Officer, to provide additional cover and continuity.

### 3.0 Equality and Diversity Implications

3.1 There are no equality or diversity implications arising from this report.

### 4.0 Legal Implications

4.1 There are no known legal implications arising from the changes proposed in this report other than those noted against each proposed change.

### 5.0 Financial Implications

5.1 There are no financial implications directly arising from this report.

### 6.0 Constitutional Implications

6.1 The proposed change to the Constitution will take effect immediately after the Council approves the amendment, in accordance with the detail set out in Appendix A

### 7.0 Customer Services Implications

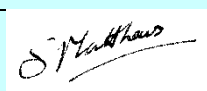
7.1 There are no direct customer services implications arising from this report

### 8.0 Corporate Outcomes

8.1 The proposed amendments to the Constitution will contribute to the corporate outcome of Effective Management by ensuring transparency in decision making.

### 9.0 Recommendation

9.1 That the Constitution be amended, as set out in Appendix A ,  
*[Reason: to ensure that the Constitution continues to provide appropriate guidance on council decision making]*

<b>Legal</b>	Power: Various – as noted in the report				
	Other considerations:				
<b>Background Papers:</b>					
<b>Person Originating Report:</b> Sharn Matthews, Monitoring Officer ✉ smatthews@east-northamptonshire.gov.uk ☎ 01832 742108					
<b>Date: 3 October 2016</b>					
<b>CFO</b> 13.02.2014		<b>MO</b>		<b>CX</b>	

**Proposed Changes to Constitution – Red is proposed new text, strike-through indicates text to be removed**

<b>Constitution Reference</b>	<b>Track Change Version of Changes – red text is proposed <i>insertion</i> whilst deleted text is proposed for removal</b>	<b>Comments</b>
Part 3.1. Responsibility for Council Functions	Preamble: Responsibility for certain functions is reserved to (full) Council as described in Article 4.01. Other functions and decisions are the responsibility of the Council's committees, as set out in the following Table. <b>In addition Policy and Resources Committee and Planning Policy Committee (but not any Sub-Committee ) can refer by a decision that would otherwise would be delegated to (full) Council for determination.</b>	
Part 3.2 Part A	1a) To determine applications with the exception of those applications falling within categories A to J below:- A. Outline or full applications for residential development involving 10 or more units in Towns or 0.5 hectares or more site area. B. <del>Outline or full applications for residential development involving more than 1 unit in Restricted Infill Villages or more than 2 units in Limited Development Villages (terms defined in the Local Plan).</del> <b>Outline or full applications relating to properties which have been designated as Assets of Community Value</b> C. Total or partial demolition of Listed Buildings D. Non-residential development involving more than 1,000 square metres of additional floorspace, unless upon land allocated for commercial development in the development plan or other development document. E. District Council applications under Article 3 or 4 of the Town & Country Planning (General Regulations) 1992 F. Applications affecting property owned or controlled by an officer or Member of the Council. G. Observations on proposals referred by adjoining Planning Authorities, Government Departments and statutory undertakers in those cases where such proposals are likely to significantly affect this District. H. Any application at the discretion of the Head of Planning Services I. Any application which a Member requests to be determined by Development Control Committee within the agreed 21 day time scale. J. Any application for renewal where the Development Control Committee considered the original application	

3.2 Part B	<p><del>92 &amp; 93</del>  <del>Powers to serve Hygiene Improvement Notices, Hygiene Emergency Prohibition Notices, Remedial Action Notices and Detention Notices:</del>  <del>Powers of inspection and seizure of suspected food:</del></p> <p>92 Food Safety and Hygiene (England) Regulations 2013 – powers to serve hygiene improvement and hygiene prohibition notices</p> <p>93 Food Information Regulations 2014</p>	Delegation in both additions to: Health Protection Manager, Senior Environmental Health Practitioner, Environmental Health Practitioners
Part 8 – Terms of Reference	<p>Policy and Resources Committee</p> <p>xvi) agreement of use of underspend from the previous financial year, and carry-forwards.</p>	
	<p>Finance Sub Committee</p> <p>9. To be responsible for the strategic management of all Council land and property assets and co-ordinate the disposal and acquisition of any capital assets. , making appropriate recommendations to the Policy and Resources Committee in relation to the principal of disposal</p> <p>10. To agree the final sale details, including price, where a site has been identified by Council for disposal,</p>	
	<p>Audit</p> <p>1. To consider the available mechanisms for the appointment of the External Auditor, the audit fee, the provision of any non-audit services by the external auditor and any questions of resignation or dismissal of the External Auditor.</p>	