



1. **PURPOSE OF REPORT**

To highlight proposed changes to the Hinckley & Bosworth Borough Council Constitution in line with changes in legislation and to bring the document up to date as part of the regular review of the Constitution.

A copy of the Constitution with the proposed changes highlighted is available in the Members' room, on the Council's website as part of the agenda documentation or is available on paper on request. If Members wish to receive clarification on any point, please contact the report author.

2. **RECOMMENDATION**

That Council approves the changes to the Constitution outlined in paragraphs 3.3 to 3.6.

3. **BACKGROUND TO THE REPORT**

3.1 The amendments to the Constitution highlighted in this report include those changes already agreed by Council – which are included in paragraph 3.2 for information only, and proposed changes which are recommended for approval as contained in paragraphs 3.3 to 3.6.

3.2 Council, at its meeting on 17 May 2011, agreed changes to the Constitution to reflect the agreed changes to the Committee structure. At the meeting on 25 October 2011, Council agreed changes regarding delegation of some planning functions and with regard to changes in polling places. Council on 19 June 2012 agreed changes in line with the new Standards regime, including a new Code of Conduct and the creation of an Ethical Governance and Personnel Committee (with removal of the Standards Committee and Personnel Committee). These changes have now been included in this update of the Constitution.

3.3 Changes proposed to parts of the Constitution within the service area of Environmental Health:

- Health Protection: due to changes in Health Protection legislation and the employing of Consultants in Communicable Diseases Control and appointment of these as Proper Officer in order to act in the control of infectious diseases.
- Health and Safety: Changes to enable to officers to act under the Sunbeds (Regulations) Act 2010 to prevent people under 18 using sunbeds.
- Water Quality: Changes to enable officers to serve a notice under the Private Water Supply Regulations 2009.
- Food safety powers: power to act with regard to illegally imported foods following consolidated legislation.

- Pollution: update in officer titles required in line with current Corporate structure.
- Applying for warrants: textual changes to delegation.
- The Environmental Permitting (England & Wales) Regulations 2007 to be replaced with updated (2010) regulations.
- Transfer of entry currently under the 'Housing portfolio' section of the Constitution to the 'Environmental Health' section regarding section 29 of the Local Government (Miscellaneous Provisions) Act 1982.
- Food Safety Powers: Removal of reference to "Products of Animal Origin (Third Country Imports) (England) Regulations 2006" and the "Products of Animal Origin (Import & Export) Regulations 2006 (as amended)", and correction of Home Office Circular number, to 30/2005.
- Re-ordering some sections and inserting new headings for purposes of clarity.

3.4 Changes proposed to parts of the Constitution within the service area of Planning:

- Delegate powers to make, confirm, withdraw & revoke TPOs (rather than just confirm)
- Exceptions to delegations clarified.

3.5 Changes proposed to Part 4 – Procedure Rules:

- Sentence inserted to state that only members of the Licensing Committee may sit on a panel for a Licensing hearing (in accordance with legislation)
- Paragraph 20 – record of attendance – has been changed to require recording of leaving the meeting only when a Member is absent for a decision, arrives late or leaves early.
- Public speaking at Planning Committee: Due to an increasing number of complaints from the public, it is proposed that we allow more than one objector with a maximum time for objectors on each application limited to a total of 5 minutes, and that we allow people to speak in support of an application even if they're not the applicant or an agent.

It is proposed that a County Councillor be given the opportunity to speak, in addition to a Borough Councillor, but where a member is a Borough and County Councillor, they may only speak once, for two minutes. A Ward Councillor will have the opportunity to speak for one period of two minutes only.

Where a member of the public speaks on an application which is subsequently deferred, when the application goes back to the Planning Committee there will be a further opportunity to speak on that application, on a first-come first-served basis as previously.

Members of the public will not be able to register to speak until the agenda has been published (ie a week before the meeting). There will no longer be the opportunity for Members to ask questions of a speaker, however if there

are any points Members wish to clarify, they can do so of officers who may then refer the question to the speaker.

- The Forward Plan: further to the making of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, which came into force on 10 September 2012, the Forward Plan is no longer relevant in the current format. There is now a requirement for key decisions of the Executive and any Executive decisions to be taken in closed session to be published in a document 28 days prior to the decision being taken. It is therefore proposed that a rolling document of Executive key and private decisions is maintained in place of the Forward Plan. Where this is not possible, the Regulations state that the Chairman of Scrutiny must be informed of the proposed decision. This section of the Constitution has therefore been re-written.
- Changes to Executive arrangements: relevant changes have been made in line with the new Regulations regarding publication of background papers and the procedure for dealing with key and private decisions that cannot be published in the required notice 28 days before the decision and cases of special urgency.
- Updated role profiles, including a new role profile for Members of the Appeals Panel.
- Voting: 18.3 – prevent members who have not heard the full debate from voting.

3.6 Administrative only changes have also been made in relation to post titles and formatting.

4. FINANCIAL IMPLICATIONS (AB)

None arising directly from this report.

5. LEGAL IMPLICATIONS (LH)

A two-thirds majority is required to make changes to the Constitution.

6. CORPORATE PLAN IMPLICATIONS

This report supports all Corporate aims by ensuring open and transparent decision making.

7. CONSULTATION

Many recommended changes arise following issues raised by Councillors and members of the public or legislative changes.

8. RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
1. Failure to approve updated Constitution leading to breaches of legislation and regulations.	Ensure members read and understand the changes prior to the meeting in order to discuss, accept or amend where necessary and on the advice of the Monitoring Officer	Louisa Horton
2. lack of awareness of decision making processes	Ensure the Constitution covers all areas of governance and that Members receive unified advice on the provisions.	

9. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

The recommendations in this report do not affect any group or community more than another. The spirit of the Constitution is to outline the management and processes within the council to ensure openness and transparency which in turn benefits all who live, work, visit or are educated within the Borough.

10. **CORPORATE IMPLICATIONS**

There are implications for those services who will be affected by changes to the Constitution. However these services have recommended the changes and/or been consulted, or the amendments are as a result of legislative changes and therefore have been imposed on the authority.

Background papers: None

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