



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.

This report was deferred at the previous meeting pending consideration by the Planning Committee of matters relating to public speaking at that committee.

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 3.7.

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 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.

3.7 Article 6 (The Overview & Scrutiny function) and Part 4 (Overview & Scrutiny Procedure Rules) have been amended to specifically include risk management as a function of the Finance, Audit & Performance Committee. This does not change the remit of the Committee, but is merely for clarification of its role.

3.8 The Planning Committee considered the proposed changes relating to planning committee procedure at its meeting on 23 October 2012. They did not support the proposed changes with the exception of the start date for speakers to register being the date of agenda publication. An extract from the minutes of Planning Committee is attached as an appendix to this report.

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

Contact Officer: Rebecca Owen, Democratic Services Officer, ext 5879

Executive Member: Councillor Bron Witherford

EXTRACT FROM THE MINUTES
PLANNING COMMITTEE
23 OCTOBER 2012

206 CHANGES TO PUBLIC SPEAKING AT PLANNING COMMITTEE AS PART OF THE ANNUAL REVIEW OF THE CONSTITUTION

Members received a report on public speaking and related procedures at Planning Committee which had been part of the Annual Review of the Constitution which was deferred at Council on 18 September pending consideration by Planning Committee. It was highlighted that the main changes proposed were to allow more than one objector to speak, with a maximum overall time for all objectors, to allow supporters other than just the applicant or agent to speak, to allow County Councillors to speak, to allow speakers on deferred applications, not to allow public speakers to register prior to publication of the agenda, and to change the format of the 'points of clarification' questioning.

During discussion, the following suggestions were made and debated:

- Reduce public speaking to two minutes and allow two objectors and two supporters to speak – following discussion it was felt that this would lengthen the meeting beyond a reasonable time;
- Allow the relevant County Councillor two minutes to speak – following discussion it was felt that the same procedure would not be followed by the County Council in allowing Borough Councillors to speak, and that the County Councillors had other means of submitting their views;
- Allow one Ward Member from a Ward to speak – following discussion concern was raised that in split-party wards it may be difficult to expect Members to appoint a speaker and agree points between them.

Members did however support the suggestion regarding allowing members of the public to register to speak following publication of the agenda.

On the motion of Councillor Batty, seconded by Councillor Crooks, it was

RESOLVED – Council be RECOMMENDED to reject all proposed changes with regard to Planning Committee and maintain the status quo except for the introduction of a start time for the registering of public speakers.