

**ANNUAL REVIEW OF THE CONSTITUTION
REPORT OF THE MONITORING OFFICER**

WARDS AFFECTED: ALL WARDS (CORPORATE ISSUE)



Hinckley & Bosworth
Borough Council

A Borough to be proud of

1. **PURPOSE OF REPORT**

- 1.1 To recommend updates to the Constitution in line with changing legislation, Corporate Operations Board restructure and amended Chief Officer titles, amendments to Financial Procedure Rules and general review of content, grammar and layout.

All substantive changes are listed in this report and a copy of the Constitution with all recommended changes highlighted is available from the Democratic Services Officer on request.

2. **RECOMMENDATION**

- 2.1 That Council approves the changes to the Constitution listed in paragraphs 3.2 to 3.10 of this report.

3. **BACKGROUND TO THE REPORT**

- 3.1 The Constitution requires updating throughout the year to keep up to date with changes in legislation, and on an annual basis a full review is undertaken to ensure consistency throughout and to provide the opportunity to give consideration to all parts of the Constitution and their continuing relevance.

- 3.2 General changes throughout the Constitution have been made as follows:

- Chief Officer titles (removal of Chief Officer (Business, Contracts & Street Scene Services and amended titles of remaining Chief Officers) as agreed by Council on 16 July 2013 and amendment of delegation as appropriate;
- Head of Service officer title changes as agreed under delegated authority;
- Grammatical and typographical changes, and updates to ensure consistency throughout document;
- Changes to the Scheme of Allowances from April 2014 as agreed by Council on 24 September 2013.

- 3.3 Changes are recommended in relation to finance as follows:

- Updating of finance definitions;
- Revenue budgets (page 135): New financial limit on variations as proposed by Strategic Leadership Board and Corporate Operations Board to include as the first bullet point 'under £1,000 on codes relating to supplies and services up to a maximum of £10,000 per annum: All members of the Corporate Operations Board' and to insert as the beginning of what was the first bullet point '20% but less than' so the second bullet point will read '20% but less than £10,000 : Deputy Chief Executive (Corporate Direction) can approve virement'. The same change is repeated on page 156 para 23;
- Removal of reference to the Capital Forum;
- Contract procedure rules (point 5 – open competitive tenders): change from 'at least two of the following media' to 'at least one of the following media'.

3.4 Required changes relating to Environmental Health (Commercial):

- Deletion of reference to Scrap Metal Dealers Act 1964 and Motor Salvage registration under Vehicles Crime Act 2001 and insertion of the delegated powers given to officers in relation to the Scrap Metals Dealers Act 2013, agreed by Council on 24 September 2013.
- Alterations to officer powers in relation to Section 38 of the Health and Safety at Work Act 1974 whereby the power to institute legal proceedings is delegated to officers appointed under Section 19 of the Act.

3.5 Amendments are required to onward limits of delegation under Building Control and Private Sector Housing:

- Page 75: to add a new point 3 to expand upon the serving of notices and prosecutions under the Building Act 1984 and give provision for delegation when immediate action is required;
- Page 80: to include additional sections of the Building Act 1984 in paragraph 4.1 – sections 59, 60, 64, 65, 66, 76 and 79 and provision for delegation where immediate action is required;
- Page 81 paragraph 4.4 and page 82 paragraph 4.5: provision for immediate action.

3.6 Changes in Street Scene Services required:

- Matters previously delegated to the Chief Officer (Business, Contracts & Street Scene Services) now delegated to the Head of Street Scene Services;
- Add in to onward limits of delegation under the Refuse and Recycling portfolio 'holding Environmental permits to operate waste transfer station delegated to Head of Street Scene Services' (this is not a new delegation but for clarity as was previously not included in Constitution);
- Removal of duplicated paragraph on car parking.

3.7 Proposed changes relating to members and committees:

- Changes required to seating arrangements at planning committee due to new meeting room and layout to state that members of the committee shall sit in their allocated place at the table and members in attendance as ward councillors or observers shall be seated in the reserved seating and shall come to the table when invited to speak;
- Grammatical and textual corrections to code of conduct.

3.8 The following changes regarding member development are recommended:

- Mandatory training for Chairs and Vice-Chairs of all committees and standing bodies;
- Amend requirement for mandatory training on Licensing, Planning and Appeals to 'as appropriate and identified by officers and the lead members for that area', rather than annually. This ensures that training on any changes in legislation is mandatory for members of the relevant committee.

3.9 Other recommended changes in the area of Corporate Services are:

- The Corporate Complaints Procedure requires updating due to the introduction of the Housing Ombudsman and the opportunity for complainants to ask advice of their ward councillor or MP prior to referring their complaint to the Ombudsman;

- Delegation of the signing of documents to the HR Manager in addition to the Chief Executive and the Chief Officer (Corporate Governance & Customer Engagement).

3.10 Other changes may be required as agreed under other agenda items at the same meeting.

4. FINANCIAL IMPLICATIONS [KP]

4.1 The only financial implications relate to the changes proposed to the financial regulations which, if approved will be enacted from 1st April 2014.

5. LEGAL IMPLICATIONS [LH]

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

6. CORPORATE PLAN IMPLICATIONS

6.1 The recommendations contained in this report support all Corporate Visions, Aims and Objectives in regulating and monitoring the decision making process and ensuring the council operates appropriately and within the legal framework.

7. CONSULTATION

7.1 Consultation has been undertaken with officers and members responsible for those aspects affected.

8. RISK IMPLICATIONS

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

8.2 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.

8.3 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
Failure to maintain constitution resulting in possible breaches of legislation.	Undertake annual reviews and ensure relevant officers input into the reviews and members are aware of recommended changes.	Louisa Horton
Lack of awareness of provisions of Constitution and of decision making processes.	Ensure members and officers are aware of the provisions and receive unified advice.	Louisa Horton / Rebecca Owen

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

9.1 The recommendations contained within this report will not affect any group or community more than another. The maintenance of the Constitution and provisions therein aim to support all who live, work, visit or are educated within the borough and to regulate decision making and ensure powers are in place to provide services appropriate for and accessible to all.

10. CORPORATE IMPLICATIONS

10.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Planning Implications
- Voluntary Sector

Background papers: None

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