

NORTH LINCOLNSHIRE COUNCIL

COUNCIL

CONSTITUTION

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To propose changes to the Constitution in relation to the council's working arrangements for 2012/2013.

2. BACKGROUND INFORMATION

- 2.1 The Local Government Act 2000 requires the council to adopt a Constitution. The Constitution is a "living document" which requires frequent amendment to keep up with changes made by the council to its management structure and procedures.

3. ISSUES FOR CONSIDERATION

- 3.1 The Constitution has been amended on a number of occasions since it was first adopted.
- 3.2 Following a review of some of the working practices adopted since May, 2012, and other legislative changes it is now necessary to make a number of changes to the Constitution to facilitate changes to working arrangements for 2012/2013.
- 3.3 Section 46 of the Localism Act, 2011 repeals the provisions relating to the duty to respond to petitions with effect from 1 April, 2012. However the council has had a very successful petitions process since its formation in 1996 and sees that process has an excellent way of engaging the community and it is proposed therefore that it is retained. Some changes to the rules relating to petitions are suggested and are attached as part of appendix D to this report.
- 3.4 The attached appendices also detail other proposed changes to the relevant parts of the Constitution. All changes and additions are in bold type and deletions are also detailed. These include -
- (i) Formal Matters - **Appendix A**
 - (ii) Notices of Motion - **Appendix B**
 - (iii) Voting - Casting Vote - **Appendix c**
 - (iv) Petitions - **Appendix D**
 - (v) Meetings of Scrutiny Panels - **Appendix E**
 - (vi) Terms of Reference of Scrutiny Panels - **Appendix F**
 - (vii) Cabinet Member Service Area Priorities Meetings - **Appendix G**
- 3.5 Members will be aware that at the meeting of Cabinet held on 24 January, 2012 a revised Senior Management Structure for the council was approved. At the meeting of council held on 21 February 2012 the process for appointments to posts within the structure was also approved. Appointments

have now been made to the three Director posts and to some Assistant Director posts with other appointments due to be made shortly. It will therefore be necessary to make other changes to the Constitution to reflect the new council management structure e.g. changes of designations for Directors etc, to be effective from today's meeting. The current Directors who have not been appointed to posts within the new structure will be leaving the employment of the council in due course. In the meantime they will remain as Directors without portfolio and carry out specific tasks until they leave.

- 3.6 The Localism Act 2011 contains many provisions which will impact on the work of the council. Many of these provisions will be statutory and the subject of regulations which have yet to be enacted and published. Some of these will therefore require changes to the Constitution in order to ensure that the council complies with the statutory requirements of the Act.

4. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 4.1 There are no staffing, financial, property or IT implications associated with this report.

5. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

- 5.1 Changes to the council's constitution must be approved by the council in accordance with the Local Government Act 2000.

6. OUTCOMES OF CONSULTATION

- 6.1 The proposed changes to the Constitution are as a result of the details referred to above.

7. RECOMMENDATIONS

- 7.1 To consider approving the changes to the council's constitution as detailed in paragraphs 3.3, 3.4 and 3.5 and the appendices to the report.
- 7.2 To authorise the Chief Executive to make other incidental or consequential amendments or delegations to or within the constitution in line with paragraphs 3.4, 3.5 and 3.6 of the report.

DIRECTOR OF CORPORATE AND COMMUNITY SERVICES

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Background Papers used in the preparation of this report - The Council's Constitution.

D1.06 FORMAL MATTERS

- (a) The entrance and exit of the Mayor shall be announced at the commencement/adjournment/termination of the meeting and all members shall stand.
- (b) The seating positions of members in the Council Chamber shall be the responsibility of the Director of **Policy and Resources** in consultation with the group secretaries.
- (c) **Subject to paragraph (d)** photographs, video or sound recordings will not be permitted in the council chamber or during any other meeting unless prior consent is obtained.
- (d) **In the spirit of openness and transparency and with objective of engaging the community the Council is considering whether to record and webcast full council and other meetings. This means that, if approved, members of the public will be able to view meetings via the internet.**

Where meetings are to be recorded, appropriate notices will be displayed outside the council chamber or other meeting rooms, explaining that the meeting(s) are being recorded so that any member of the public or other persons such as officers attending particular meetings are made aware of the recording. In addition any member of the public or other persons who are attending meetings to speak in any capacity will be informed that the meeting(s) are being recorded for webcasting purposes. At each meeting being recorded the Chairman of the particular meeting will also explain that the meeting is being recorded. It should also be noted that the meetings to be recorded will be public meetings of the council and will be subject to the council's normal working arrangements and procedure rules. Recorded meetings will also be archived.

D1.15 NOTICES OF MOTION

- (a) All notices of motion shall be given in writing to the **Director of Policy and Resources** and shall be dated and numbered as received, and open to the inspection of every member of the Council.
- (b) The **Director of Policy and Resources** shall, if requested by a member giving notice of a motion or an amendment thereto, advise as to the legality and form of the motion or amendment and assist in its preparation.
- (c) Every motion and resolution shall relate to the Council's statutory functions, powers and lawful obligations or shall relate to an issue which specifically affects the Council's area or its residents. Motions or resolutions will not be permitted which relate to the personal circumstances of any individual including members of staff or elected members.
- (d) Notices of motion must be given in writing to the **Director of Policy and Resources** at least nine clear days before the relevant meeting and must be signed by the mover and seconder. Notices of motion may only be given for the council meeting immediately following the date of the notice.
- (e) Not more than two notices of motion shall be listed for any council meeting. Each of the two main political groups on the council shall be entitled to have one notice of motion at each council meeting. Priority shall be given to each group on an alternating basis.

However if the current political composition of the council changes at any time in the future, there will be an opportunity for any member who is not a member of either of the two main political groups currently represented on the council to submit a notice of motion following those listed by the two main political groups and that motion must comply with all the requirements of Procedure Rule D1.15.

- (f) If a motion set out in the Summons is not moved or seconded by the named members who gave notice of it, it may be moved or seconded

by some other member on their behalf. Any motion not moved at the meeting at which it appears upon the Summons shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

- (g) If the subject matter of any such motion comes within the province of any Committee or Committees, it shall, upon being formally moved and seconded, stand referred without speech or debate, to such Committee or Committees for consideration and report, provided, however, that if in the Mayor's opinion it is a matter of urgency, the Mayor may allow the motion to be dealt with at the meeting unless the motion would, if carried, have the effect of materially increasing the expenditure or reducing the revenue of a committee, or would involve capital expenditure.

D1.22 VOTING

- (a) Voting at meetings of the Council will be by show of hands or using an electronic voting system at the discretion of the Mayor. If there is no dissent the Mayor may take the vote by the affirmation of the meeting. Members must be seated when the vote is taken.
- (b) If an electronic voting system is used members will have a period of 30 seconds in which to register their votes. At the expiry of the period of 30 seconds the votes then registered will be binding, unless a member immediately indicates to the Mayor that his/her vote has not been registered or has been incorrectly registered whereupon the Mayor will ask for the vote to be retaken by show of hands. Members who have not registered a vote at that time will be taken to have abstained.
- (c) Where any member requests immediately after the vote is taken, their vote will be recorded in the Minutes to show whether they voted for or against the motion or abstained from voting.
- (d) If four members present at the meeting rise and demand it prior to the vote being taken, the voting shall be recorded so as to show whether each member present voted for or against the question or abstained from voting. A recorded vote may be taken using an electronic voting system or by a manual roll call. In the case of a manual roll call a period of 30 seconds shall be permitted to allow members to take their places in the meeting room immediately after which the votes shall be taken. The name or vote of any member taking his or her place after the vote shall have commenced, shall not be recorded.
- (e) **If there are an equal number of votes for and against a proposal, the proposal shall not be carried unless the Mayor/Chairman chooses to use his/her second or casting vote to break the deadlock. The decision on whether or not to exercise a second or casting vote is that of the Mayor/Chairman alone. He/she retains the legal right to proceed as he/she sees fit. Exercise of a second or casting vote will not invalidate the decision. (A second vote from the Mayor/Chairman means that he/she has voted in the original vote which resulted in tied numbers and votes again to break the deadlock. A casting vote is exercised when the Mayor/Chairman did not take part in the original vote and casts a vote in favour or against in order to break the deadlock).**

D1.34 PETITIONS

The council welcomes petitions and recognises that ~~petitions~~ **they** are one way in which people can let us know their concerns. ~~All petitions sent or presented to the council will receive an acknowledgement from the council within 5 working days of receipt. This acknowledgement will set out what we plan to do with the petition.~~ We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

(a) **What are the guidelines for submitting a petition?**

(i) Petitions submitted to the council must include:

- a clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take
- the name and address and signature of 10 or more persons supporting the petition who live, work or study in the area of the council.

(ii) Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition **and who the council will regard as having the representative authority of the other petitioners**. The contact details of the petition organiser will not be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

(ii) Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently - if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above,

the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

(b) What will the council do when it receives my petition?

- (i) An acknowledgement will be sent to the petition organiser within 5 working days of receiving the petition. It will let him/her know what we plan to do with the petition and when he/she can expect to hear from us again. It will also be published on our website.
- (ii) If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.
- (iii) If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. ~~Further information on all these procedures and how you can express your views is available here on the council's website.~~
- (iv) We will not take action on any petition which we consider to be vexatious, abusive or **outside the council's powers** otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.
- (v) To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed.

(c) How will the council respond to petitions?

(i) Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by an overview and scrutiny panel*
- ~~calling a referendum~~
- writing to the petition organiser setting out our views about the request in the petition

(ii) *Overview and scrutiny panels are committees of councillors who are responsible for scrutinising the work of the council - ~~.in other words, an overview and scrutiny panel has the power to hold the council's decision makers to account..~~

(iii) In addition to these steps, the council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

(iv) Where the petition does not trigger a council debate or officer evidence and relates to a matter within the brief of a cabinet member it will be referred to that member. If the petition organiser so requests a deputation comprising not more than 3 signatories to the petition may present it to a panel comprising the appropriate cabinet member, lead member, a member of the opposition group, ward members where appropriate and relevant ~~service~~ director. The panel will have a report from an appropriate officer on the issues raised by the petition. One member of the deputation shall be permitted to address the panel for not more than 5 minutes.

The cabinet member shall be responsible for responding to the issues raised by the petition. If the cabinet member so wishes he/she may refer the petition to the full cabinet.

(v) If your petition is about something over which the council has no direct control **or outside its powers** (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. ~~The council works with a large number of local partners and where possible will work with these partners to respond to your petition e.g. if the~~

~~petition relates to under performing health services we will work with local health partners to consider the matter raised in the petition including where appropriate, exploring what role the Local Involvement Network (LINK) might have in reviewing and feeding back on the issue (the LINK is run by local individuals and community groups and independently supported their role is to find out what people want in terms of local health services, monitor these services and to use their powers to hold them to account). An appropriate scrutiny panel will also be alerted to the petition and where the matter is sufficiently or potentially serious, the issue will be referred to them to consider for review. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you. You can find more information on the services for which the council is responsible from the council's website.~~

If your petition is about something that a different council is responsible for we will ~~give consideration to what the best method is for responding to it. This might consist of simply forwarding the~~ **forward the** petition to the other council, ~~but could involve other steps. In any event we will always~~ **and** notify you of the action we have taken.

(d) Full council debates

- (i) If a petition contains more than 1,500 signatures it will be debated by the full council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The council will **ordinarily** endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. **Prior to the petition being formally included on the council agenda, the Head of Democratic Services will liaise with the nominated petition organiser to clarify or confirm that he/she wishes to proceed with the petition, notwithstanding that there may have been a material change in circumstances from when the petition was first received by the council. If the petition proceeds** The petition organiser will be given five minutes to present the petition at the meeting and ~~the petition~~ it will then be discussed by councillors for a maximum of 15 minutes. The council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward

in the debate, or to commission further investigation into the matter. Where the issue is one on which the council executive are required to make the final decision, the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of ~~this~~ the decision. This confirmation will also be published on our website.

(e) Officer evidence

- (i) Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

- (ii) If your petition contains at least 750 signatures, the relevant senior officer will give evidence at a public meeting of the relevant scrutiny panel. ~~A list of the senior staff that can be called to give evidence can be found here~~. You should be aware that the panel may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition - for instance if the named officer has changed jobs. The panel may also decide to call the relevant cabinet member or other councillor to attend the meeting. Panel members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the panel by providing details up to three working days before the meeting.

(f) E-petitions

- (i) The council welcomes e-petitions which are created and submitted through our website. E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide us with their name, postal address and e-mail address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

- (ii) When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

- (iii) If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.
- (iv) When an e-petition has closed for signature, it will automatically be submitted to Democratic Services to be dealt with. In the same way as a paper petition, you will receive an acknowledgement within ~~10~~ 5 working days.
- (v) A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgement and response will also be published on this website.

(g) **How do I 'sign' an e-petition?**

- (i) You can see all the e-petitions currently available for signature ~~here~~ **on the council's web site.**
- (ii) When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

(h) **What can I do if I feel my petition has not been dealt with properly?**

- (i) If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that ~~the a~~ **scrutiny ~~co-~~ordinating** panel **should** review the steps that the council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the council's response is not considered to be adequate.

- (ii) The panel will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the panel determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council Executive and arranging for the matter to be considered at a meeting of the full council. Once the appeal has been considered the petition organiser will be informed of the results within seven days. The results of the review will also be published on our website.

D5.04 MEETINGS OF SCRUTINY PANELS

- (a) A schedule of meetings for every scrutiny panel will be determined at the Council's Annual Meeting. The chairman, ~~or in the chairman's absence the vice-chairman~~ may vary the date and time of a specific meeting and omit or call further meetings to ensure an efficient and expedient process, **particularly where there is a need for panels to react positively and decisively to developments within their service area.** ~~Any such changes shall also be agreed with Group Secretaries.~~ The chairman of a scrutiny panel shall ensure that the business to be carried out by the panel at each meeting is dealt with in a careful and responsible way to ensure the effective use of members' and officers' time and use of resources.
- (b) A scrutiny panel meeting will normally focus on one or a combination of the following overview and scrutiny functions:
- Policy Review and Development;
 - Overview of policy, procedure and performance
 - Added Items;
 - Cabinet member service area priorities
 - Performance Monitoring and Assessment;
 - Improvement and action plan monitoring;
 - Health scrutiny functions defined in the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002, and associated legislation and guidance **including the Health and Social Care Act 2012.**
 - Call-Ins;
 - Joint scrutiny work with other councils/partners.
 - Councillor Call for Action.
 - Relevant functions as the council's Crime and Disorder Committee under Paragraph 1. Section 19 of Part 3 of the Police and Justice Act 2006.
 - Meet responsibilities relating to flood management. **and safeguarding**

This is likely to involve:

- project planning;
- evidence gathering;
- analysis and evaluation;
- conclusion reaching; or
- holding the council's Executive and/or external partners to account.
- making recommendations

D5.08 MEMBERSHIP AND TERMS OF REFERENCE OF SCRUTINY PANELS

(a) PEOPLE SCRUTINY PANEL

Membership:

5 Councillors (and 4 statutory co-opted members when dealing with education matters, paragraph D5.03 refers)

Terms of Reference:

To carry out relevant scrutiny functions relating to services **commissioned or** delivered by the council and its **relevant** partner **authorities** to individuals and groups of all ages **and to ensure the effectiveness of safeguarding procedures.**

(b) PLACES SCRUTINY PANEL

Membership:

5 Councillors (and 4 statutory co-opted members when dealing with education matters, paragraph D5.03 refers).

Terms of Reference:

To carry out the relevant overview and scrutiny functions relating to services delivered **or commissioned** by the council and its partners for stronger, safer and cleaner places and infrastructure, and to carry out all appropriate functions as the council's Crime and Disorder Committee under paragraph 1 Section 19 Part 3 of the Police and Justice Act 2006. Also, to meet responsibilities expected by the Pitt Review relating to flood risk management.

(c) CORPORATE SCRUTINY PANEL

Membership:

5 Councillors (and 4 statutory co-opted members when dealing with education matters, paragraph D5.03 refers).

Terms of Reference:

To carry out the relevant overview and scrutiny functions relating to services delivered **or commissioned** by the council and its **relevant partner authorities** relating to corporate and strategic services, **the council's budget** performance and/or cross cutting issues.

(d) HEALTH SCRUTINY PANEL

Membership:

5 Councillors (and 4 statutory co-opted members when dealing with education matters, paragraph D5.03 refers).

To carry out relevant health scrutiny functions relating to services **commissioned, planned or delivered by the council and/or by local health services and clinicians, including public health, primary and acute care, mental health and ambulance services.**

D5.12 (b) Cabinet Member Service Area Priorities Meetings

Scrutiny Panels shall meet at least every two months with relevant Cabinet Member(s) to consult, discuss and consider business within his/her service area portfolio and/or a scrutiny panel's terms of reference. **However, cabinet members may be invited to attend meetings on a more ad-hoc basis should scrutiny panels seek further insight, clarification or explanation to policy changes or service development or other specific issues identified by the panel.** This business may include -

- (i) discussion of items prior to decision; (post decision, refer to 'Added Items' in paragraph D5.12(a).
- (ii) opportunities for Cabinet Members to discuss and possibly refer appropriate business to a relevant scrutiny panel for consultation, and/or consideration for inclusion in its work programme;

Business to be consulted on, discussed and considered by a scrutiny panel shall be at the discretion of the chairman, the relevant cabinet member(s) and in consultation with the Director of **Policy and Resources**.