

Local Members Interest
N/A

Audit and Standards Committee - Tuesday 13 July 2021

Changes to the Constitution including the review of changes as approved by Annual Council on 20 May 2021

Recommendations

I recommend that Members of the Committee

- a. Review changes to the Constitution detailed in table one within the report and which were approved at the Annual Council meeting in May 2021 and confirm their satisfaction with the same; and
- b. Consider and recommend to Council the further changes detailed in table two within the report

Report of the County Solicitor

Background

1. The Staffordshire County Council Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. The Constitution is divided into Sections which explain how the Council makes its decisions by outlining how the different parts of the Council work and the basic rules governing the Council's business.
2. Over the past several months work has been ongoing in reviewing the Constitution including the Scheme of Delegation to Officers.
3. The Director for Corporate Services has the authority to make minor and consequential amendments to the Constitution, including the Scheme of delegation to Officers, to keep it up to date with legislative requirements and/or to keep the whole constitution in line with Council decisions made from time to time.
4. Material and significant changes to the Constitution are required to be approved by full Council. The full process for approving those involves an initial report to the Audit and Standards Committee where, under delegated powers from full Council, detailed discussions can take place prior to that Committee submitting a recommendation to Council that any proposed changes be approved.(any proposals that are not supported by the Audit and Standards Committee would be referred back to their author for reconsideration).
5. At the Annual Council meeting on 20 May 2021, I reported directly on a number of amendments to the Constitution required to reflect changes to decision making structures.

6. Included in my report were a number of changes to the Scheme of Delegation to Officers as had been requested by Senior Leadership Team members to reflect day to day operational requirements and the Council's involvement in wider projects (eg. HS2). In supporting the changes to the Constitution, the Leader of the Council indicated his wish for those changes to be reviewed by this Committee in order to provide reassurance that they are required and in keeping with this Council's 'member-led' philosophy.
7. The changes requiring review are listed in Table 1. This Committee's views are invited.
8. In addition, there are two further changes to the constitution for your consideration and recommendation to full Council on 24 July. These two proposed changes are included in table 2.

Table 1 – Changes to the Constitution made in the Annual Council meeting May 2021 requiring review		
Ref.	Change	Reason for Change
Section 6 - Cabinet Portfolios	'Cyber Security' has been included in the Cabinet portfolio for Finance and Resources.	New Administration review of Cabinet Portfolios
Section 7 – Select Committees	Committees previously referred to as Select Committees are now titled Overview and Scrutiny Committees. This may be shortened to Scrutiny Committees.	New Administration review of decision-making structures
Section 11 - Officers – Scheme of Delegation Table 1 - Delegations to all Senior Leadership Team Members	Revised to state: Following consultation with the County Solicitor, to instruct the County Solicitor to: <ul style="list-style-type: none"> • issue or instigate, prosecute, defend, withdraw, appeal or compromise any claims or legal proceedings (civil or criminal) connected with any function or service for which the Senior Leadership Team member is responsible • commence criminal proceedings for any breach of any law/by-law within the services and functions for which the Senior Leadership Team member is responsible • pursue the recovery of costs incurred by the County Council as part of any legal proceedings 	This is a formalisation of the established position and practice that Legal Services support all directorates in the consideration of commencement and the delivery of legal proceedings.
Section 11 - Officers – Scheme of Delegation Table 3B - Delegations to the County Solicitor	Delegations to County Solicitor extracted from Director for Corporate Services Scheme of Delegation.	Clear identification of County Solicitor responsibilities following the establishment of that role
Section 11 - Officers – Scheme of Delegation	Table 4 (delegations to former director of finance and resources) has been removed as it is no longer required.	Deletion of post of Director of Finance and Resources (Delegations shared between Director of Corporate

Table 1 – Changes to the Constitution made in the Annual Council meeting May 2021 requiring review

Ref.	Change	Reason for Change
Table 4 - Former Director of Finance and Resources		Services and the Chief Financial Officer (Section 151 Officer)
Section 11 - Officers – Scheme of Delegation Table 5 - Delegations to the Director for Economy, Infrastructure and Skills 8A	Following consultation with the Cabinet Member, to develop, implement and monitor a programme of on-street charges for parking schemes.	This exists within the current scheme of officer sub-delegation (Item 9) i.e. a matter of tidying-up. Added several years ago after the joint Civil Parking Enforcement (CPE) arrangements with Borough / District Councils were dissolved to help facilitate improved Town Centre parking outcomes and latterly support MTFS savings/income. In practice only schemes that have had local Member support have ever progressed.
Section 11 - Officers – Scheme of Delegation Table 5 - Delegations to the Director for Economy, Infrastructure and Skills 14A	To enter into Engineering and Construction Contracts with various contractors to facilitate the delivery of proposed highway infrastructure works. This includes works that are funded by developers and are subject to a formal agreement under s278 of the Highways Act 1980; and separate Call-Off contracts with Amey LG for highway infrastructure works in accordance with the provisions of the Infrastructure+ Contract.	This exists within the current scheme of sub-delegation (item 16), so a matter of tidying up. It was added after award of I+ contract around 2015/16 with the intention of facilitating Schedule 20 of the I+ Overarching Agreement. However, in practice the Council's Financial Regulations control the awarding of contracts so this delegation isn't needed and can be deleted.
Section 11 - Officers – Scheme of Delegation Table 5 - Delegations to the Director for Economy, Infrastructure and Skills 14B	To designate a footpath as a cycle track under the Cycle Tracks Act 1984.	New item to enable change of designatory status (maintenance standards) as part of Integrated Transport improvements.
Section 11 - Officers – Scheme of Delegation	To take and implement any decisions necessary to fulfil the Council's responsibilities under the Mines and	This exists within the current scheme of sub-delegation (item 18), so is a matter of tidying up.

Table 1 – Changes to the Constitution made in the Annual Council meeting May 2021 requiring review

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Table 5 - Delegations to the Director for Economy, Infrastructure and Skills 14C	Quarries Act 1969 in respect of safe stability monitoring and enforcement of used and unused tips.	Added about 3 years ago as part of a MTFS decision to fund proactive management of this statutory service. Previously, service provision, was conducted on a reactive basis only.
Section 11 - Officers – Scheme of Delegation Table 5 - Delegations to the Director for Economy, Infrastructure and Skills 15A	In accordance with the relevant parts of Schedule 17 of the High Speed Rail (London - West Midlands) Act 2017 and Schedule 17 of the High Speed Rail (West Midlands - Crewe) Act 2021 (HS2) to determine the arrangements relating to the routes by which anything is to be transported to the site on a highway by a large goods vehicle (ref. Schedule 17, Part 1, Paragraph 6 (2) and Schedule 17, Paragraph 6 (1); [Note: see Planning section 26A below for matters related to Schedule 17 - paragraphs 4 and 7].	This is a new delegation proposal to empower the responsible HS2 officers to approve construction routes, in accordance with the council's statutory duties and with appropriate consultation.
Section 11 - Officers – Scheme of Delegation Table 5 - Delegations to the Director for Economy, Infrastructure and Skills 15B	To apply for the drawdown of Road Safety Funds from HS2 Ltd. as part of a Cabinet approved HS2 Road Safety Fund programme.	This was a new delegation proposal to empower the responsible HS2 officers to access allocated funding for the HS2 Road safety Programme. However, as such improvement schemes would be approved by Cabinet through the annual Highways and Transport capital programme, this delegation is already provided by General Delegation A: <i>To take all steps to implement any decisions taken by the Council or under delegation to the Director of Economy, Infrastructure and Skills. (COUNCIL/ CABINET : ROLE B-D).</i> Therefore, this new delegation proposal isn't needed and can be deleted.

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<p>Section 11 – Officers – Scheme of Delegation</p> <p>Table 5 - Delegations to the Director for Economy, Infrastructure and Skills</p> <p>22A</p>	<p>To authorise the serving of Minerals Planning Orders including Modification, Revocation, Discontinuance, Prohibition, Suspension and Supplementary Suspension Orders and refer to the Secretary of State as appropriate subject to the approval of the Chairman or (in his absence) the Vice-Chairman of Planning Committee and to consultation with the Director of Corporate Services and the Local Member.</p> <p>Sub-delegated to Assistant Director for Business and Enterprise.</p>	<p>A new delegation that required clarification on who is to be consulted.</p>
<p>Section 11 - Officers – Scheme of Delegation</p> <p>Table 5 - Delegations to the Director for Economy, Infrastructure and Skills</p> <p>25A</p>	<p>In accordance with the relevant parts of Schedule 17 of the High Speed Rail (London - West Midlands) Act 2017 and Schedule 17 of the High Speed Rail (West Midlands - Crewe) Act 2021 (HS2) to determine:</p> <ul style="list-style-type: none"> • the conditions related to the disposal of waste or spoil or the excavation of bulk material from borrow pits – specifically the arrangements relating to the ‘ancillary matters’ (ref, Schedule 17, Part 1, Paragraph 4 (4) and Schedule 17, Paragraph 4 (4)); • the plans or specifications submitted by the nominated undertaker related to waste and spoil disposal and excavation of bulk material from borrow pits (ref. Schedule 17, Part 1, Paragraph 7 (2) and Schedule 17, Part 1, Paragraph 7 (2)); <p>subject to the Director’s discretion to consult with the Chairman or Vice-Chairman of the Planning Committee.</p>	<p>This extension to the sub-delegation scheme is to enable planning officers to determine conditions and approve details to control the working and restoration of borrow pits previously approved under the HS2 Act.</p> <p>The provisions are similar to those that already exist in the sub-delegation scheme to determine submissions of detail and submissions by mineral undertakers under the Town and Country Planning (General Permitted Development) Order 2015 (sections 29 and 30) with the added provision to consult with the Chairman or Vice-Chairman of the Planning Committee (as per section 23).</p> <p>It is relevant to note that in accordance with the HS2 Environmental Minimum Requirements: Planning Memorandum (which the County Council has signed</p>

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	<p>[Note: see Highways section 15A above for matters related to Schedule 17 – paragraph 6]</p>	<p>up to as a ‘qualifying authority’) the County Council has given an undertaking to:</p> <ul style="list-style-type: none"> a) ‘use its reasonable endeavours to make its decision on the approval expeditiously, and in any event within eight weeks after the date of submission of additional details’; and, b) ‘put in place appropriate internal decision-making arrangements to ensure that this timetable for determining requests is achieved. If adherence to the normal committee cycle would make it difficult to reach decisions in accordance with the timetable, consideration should be given to authorising greater delegated powers for officers and/or the formation of a dedicated sub-committee.’ <p>Repeated failure to determine approvals on time runs the risk that the Secretary of State removes the powers of a qualifying authority.</p>
<p>Section 11 – Officers – Scheme of Delegation</p> <p>Table 6 - Delegations to The Director for Families and Communities</p>	<p>There are several changes made to the Delegations to Director for Families and Communities which have been approved by the Director for Corporate Services. These are minor and consequential amendments to the constitution to keep it up to date with legislative requirements.</p>	<p>To keep in line with legislative changes.</p>

Table 1 – Changes to the Constitution made in the Annual Council meeting May 2021 requiring review

Ref.	Change	Reason for Change
<p>Section 11 - Appendix 3 – Officer Employment Procedure rules</p> <p>3.7 Remuneration for Chief Officers</p>	<p>The County Council will convene a Special Committee¹ to review and change the remuneration, as defined in the Localism Act 2011, of Chief Officers, to include the Head of Paid Service.</p> <p>The Special Committee will be convened as and when the County Council requires it.</p> <p>The Special Committee will be known as the Remuneration Committee for the duration that it is convened. The Remuneration Committee will not be a Standing Committee.</p> <p>For the avoidance of doubt, these arrangements do not apply to officers of the Wider Leadership Team.</p>	<p>Custom and practice has been for decisions on Chief Officer Remuneration to be taken by a politically proportionate committee of members [Special Committee] often, but not always, at the point of officer recruitment.</p> <p>The Officer Employment Rules, as they were currently drafted, did not operate to reflect this practice. This proposal will correct this omission by including this procedure by giving the Special Committee (to be called the Remuneration Committee for this purpose) the power to review and adjust the remuneration of Chief Officers, including the Head of Paid Service, as and when required.</p> <p>Please see table 2 for additional change required</p>
<p>Section 11 - Officer – Scheme of Delegation</p>	<p>‘Cyber Security’ has been included in the Scheme of Delegation for Corporate Services and Sub Schemes of Delegation for Policy / Strategy and Infrastructure.</p>	<p>New Administration review of Cabinet Portfolios</p>
<p>Section 13 - Appendix 1 Flexibility of Meetings</p>	<p>The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 do not apply to meetings on or after 7 May 2021. Appendix 1 Coronavirus Temporary amendments to Section 13 (Access to Information) has been removed from the Constitution. Committee meetings with voting members of the Council will revert to taking place in a “physical” format. Any reference to</p>	<p>Change in legislation</p>

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Ref.	Change	Reason for Change
	temporary changes to meetings have been removed: 1A Access to Information 2A Remote Access to Meetings 3A Members in Remote Attendance 4A Remote Attendance by Members of the Public 5A Remote Voting 6A Members excluded from the meeting	

Table 2 – Additional proposed changes to the Constitution for recommendation to Council		
Ref.	Change	Reason for Change
Section 11 – Officers – Scheme of Delegation Table 6 - Delegations to The Director for Families and Communities 12	To be responsible for the functions conferred on or exercisable by the Local Authority in its capacity as a local education authority particularly: (1) its strategic duties under the Education and Inspections Act 2006 to promote: <ul style="list-style-type: none"> • Choice • Diversity • High standards • The fulfilment of every child’s educational potential (2) its responsibilities under the Education Act 1996 to: <ul style="list-style-type: none"> • Secure School Places • Secure excellence in education, promoting high standards and fulfilment of potential 	A need to tidy up and ensure full compliance with the relevant legislation

Table 2 – Additional proposed changes to the Constitution for recommendation to Council

Ref.	Change	Reason for Change
	<p>(3) its responsibilities under the Education Act 1996 or any subsequent legislation in relation to the provision of education for children and young people with Special Educational Needs</p> <p>(4) to institute proceedings in relation to failures to secure attendance of children at school, or failures to comply with School Attendance Orders (Sections 437 to 447 of the Education Act 1996, or any subsequent re-enactment thereof)</p> <p>(5) to issue Fixed Penalty Notices for non-school attendance under section 444A of the Education Act 1996, or any subsequent re-enactment thereof.</p>	
<p>Section 11 appendix 3 Remuneration for Chief Officers (Senior Leadership Team) Section 3.7</p>	<p>To include “resolve issues” and clarification of the inclusion of Directors within the Senior Leadership Team.</p>	<p>Clarification of the terms of reference of any Special Committee called to consider the remuneration of chief officers (defined as the head of paid service and directors). See below re 3.7.3</p>
<p>3.7.1</p>	<p>The addition of “in accordance with arrangements described in 3.3 above”</p>	<p>Clarification of the membership of and arrangements for the membership of any Special Committee</p>
<p>3.7.3</p>	<p>To read – The Special Committee will have the authority to :</p> <ul style="list-style-type: none"> • Resolve issues relating to the remuneration and allowances during employment including the use of settlement agreements, as appropriate • Agree changes to the Senior Leadership Team remuneration strategy which may impact on remuneration for individual officers 	<p>The Committee has the authority to review and change the remuneration for Senior Leadership Team, including the Head of Paid Service, as and when required. [Confirmed by Council in May 2021 – see above]</p> <p>However, it is essential that the Committee has clear authority to resolve complex wider remuneration</p>

Table 2 – Additional proposed changes to the Constitution for recommendation to Council

Ref.	Change	Reason for Change
		<p>issues as part of any review and also determine future remuneration strategy as and when the Council requires it.</p> <p>For the avoidance of doubt, these additional arrangements only apply to Senior Leadership Team, which includes the head of paid service and directors, and do not apply to officers of the Wider Leadership Team.</p>

Legal/Risk Implications

9. The changes proposed in this report shall ensure that Staffordshire County Council operates a system of good governance, accountability, and transparency as required by the Localism Act 2011, other legislation and more generally as required.

Resource and Value for Money Implications

10. The proposals in the report do not generate any additional resource implications for the Authority.

Climate Change Implications

11. There are no climate change implications arising as a result of this report.

List of Background Documents

Section 11 of Constitution – Officers – Schemes of Delegation and Officer Employment Rules.

Contact Details

Report Author:	Ann-Marie Davidson
Job Title:	County Solicitor
Telephone No.:	01785 276131
E-Mail Address:	ann-marie.davidson@staffordshire.gov.uk