

Open Report on behalf of the Executive Director Performance and Governance

Report to:	County Council
Date:	18 May 2012
Subject:	Annual Amendments to the Constitution

Summary:

The purpose of this report is to ask the Council to approve the changes as detailed in the report.

Recommendation(s):

That the amendments as detailed in the report presented be approved.

1. Background

In accordance with the Council's Constitution, the Monitoring Officer shall review the Constitution annually with a view to recommending any such amendments to the Annual Meeting of the Council.

Members last reviewed the Constitution at their meeting held on 20 May 2011.

Amendments to the Constitution have been received, and in accordance with the Council's Constitution these have been considered by Group Leaders prior to this meeting.

The proposed amendments as part of the annual review are detailed below:-

1. Amendments to Part 1 – "A Summary of the Lincolnshire County Council Constitution"

Paragraph 1c

On the 9 December 2011, Council approved the new Vision and Purpose for the Council, as a result of this paragraph 1c will be extended to incorporate:

Lincolnshire County Council – working better for you

Vision

- **building on our strengths**
- **protecting your lifestyle**
- **ambitious for the future**

The County Council's purpose

- **making the best use of all of our resources**
- **investing in infrastructure and the provision of services**
- **commissioning for outcomes based on our communities' needs**
- **promoting community wellbeing and resilience**
- **influencing, coordinating and supporting other organisations that contribute to the life of Lincolnshire**

2. Part 2 - Articles – Article 4 – The Full Council

2.1 Paragraph 4.01 Policy - Policy Framework

The Council at its meeting on 17 February approved the Organisational Strategy and The Business Plan.

That the **Organisational Strategy** should be added to the list of plans and strategies and that the **Sustainable Community Strategy** should be deleted from the list. (Please note: The Business Plan is already included in the list as this was an amendment considered by the Council at its meeting on 20 May 2011).

2.2 Article 7 – Regulatory and Other Committees and Bodies of the Council

Paragraph 7.04 Chief Officers' Salaries Review Sub-Committee

At the Council meeting on 17 February 2012, the Council agreed to rename the Chief Officers Salaries Review Sub-Committee to the '**Pay Policy Sub-Committee**'.

Council also changed the remit of the Sub-Committee to include:

- **To exercise oversight of Pay Policy**
- **To recommend the annual Pay Policy Statement and any amendments to Council**

2.3 Article 10 – Officers
(b) Chief Officers

Chief Executive

On page 2/38 the following area of responsibility to be added:-

- **Services for Adults and Older People with Social Services needs**

On page 2/39 the title: *‘Executive Director Adults and Children’s’* to be deleted and replaced with **‘Director of Children’s Services’** and that the area of responsibilities are as follows:-

- **Children in Need**
- **Education (other than Adult Education)**

3.0 Part 3 - Responsibilities for Functions

3.1 Chief Executive

On page 3/20 the following specific powers become the responsibility of the Chief Executive and will be inserted after the existing paragraph 9.

To act as Director for Adult Social Care in accordance with Section 6 of the Local Authority and Social Services Act 1970 (as amended) and in particular in relation to the following functions:-	
Services for Adults and Older People	
1.	To accept Guardianship applications under Section 8 of the Mental Health Act.
2.	To consent under Section 8(4) of the Mental Health Act 1983 to any amendment of any Guardianship application which has been accepted or any medical recommendation.
3.	To designate Approved Social Workers as Officers for the purposes of the Mental Health Act 1983.
4.	To maintain registers of sensory impaired and disabled persons.
5.	To take decisions in respect of the Council’s functions acting as Administering Authority in connection with Supporting People.
6.	To approve the disposal of assets belonging to deceased residents to persons entitled to them after payment of proper claims on account of funeral expenses and sums due to the Council.
7.	To incur expenditure either directly or via provision of
	(a) equipment to persons permanently and substantially disabled;

	(b) for special purposes, e.g. recreational, educational and social facilities;
	(c) of adaptations to property occupied by persons permanently and substantially disabled.
8.	To approve augmentation for a person on a Blind Homeworker Scheme.
9.	To authorise the admissions and payment of purchases of all forms of residential, day and domiciliary care.
10.	To approve variations of fees so far as they have been agreed by the “Examining Authority” and for which the Council have accepted responsibility for children, young persons or adults attending or residing in establishments not maintained or assisted by the Council and to approve alterations in charges for the maintenance of such residents.
11.	To authorise payment for maintenance of people for whom the Council is financially responsible in homes provided by other local authorities and bodies.
12.	To approve expenditure incurred in the protection of movable property or persons and to recover such expenditure where applicable.
13.	To make assessment of contributions by persons provided with services and to approve variation of assessed charges to avoid hardship.
14.	To add additional persons to the list of Independent Chairmen of the Complaints Review Panel established under the National Health Service and Community Care Act 1990.
15.	To approve, following consultation with the appropriate Executive Councillor, the appointment of replacement visiting members of Social Services establishments.
16.	To approve agreements and contracts with or grants to voluntary organisations in undertaking the functions of Social Services Directorate and the services for which the Director is responsible.
17.	To authorise under the provisions of the Human Tissue Act 1961 (where the Council is in lawful possession of the body) the removal of parts of the body of a deceased resident in accordance with the wish expressed by the resident during his/her lifetime.

3.2 Executive Director (Resources and Community Safety)

On page 3/21, to delete paragraphs 4 and 5 as these are no longer applicable (Text to be deleted show below in italics):-

5. *To exercise the functions of trustees of the Group Life Assurance Scheme.*
6. *To enhance pensions in cases of retirement in the interests of efficiency or redundancy*

Renumber the remaining paragraphs **5 to 16** and then add the following new power for the Executive Director (Resources and Community Safety) after power 16:-

- 17. To approve allocations from the corporate contingency revenue budget in consultation with the Executive Councillor with responsibility for finance and any other appropriate Executive Councillors**

Under the General Section of the Executive Director (Resources and Community Safety)

On page 3/22, delete paragraphs 1 and 2, as these are no longer applicable

1. *To exercise the functions of the Council in relation to the registration of war charities.*
2. *To approve the registration of volunteers.*

3.3 Annexe A – Loans and Advances to Outside Bodies

On Annex A page 3/27, the financial thresholds in 1(a), 1(b), 1(c) and 2 have been up rated to the thresholds shown below:-

- (a) where the money is less than **£20,000** the Executive Director (Resources and Community Safety) shall have the power to approve such cases.
- (b) where the money lent is greater than **£20,000** but less than **£50,000**, the Executive Director (Resources and Community Safety) shall have the power to approve such cases but shall report such instances in writing to the Executive Councillor responsible for finance.
- (c) where the money lent is **£50,000** or more, then the Executive Director (Resources and Community Safety) shall consult with the appropriate Executive Councillors before approving and shall report the arrangements made to the first available meeting of the Value for Money Scrutiny Committee.

2. In all cases it is expected that interest at appropriate market rates would be charged. There may, however, be instances where an interest charge would be inappropriate. In that case the Executive Director (Resources and Community Safety) be given the power to waive the interest element where in his opinion it would be inappropriate. Where the interest involved is significant (over **£10,000**) then such waiver would be after consultation with the appropriate Executive Councillor responsible for finance.

3.4 Executive Director Adults and Children's

The title of '*Executive Director Adults and Children's*' is to be deleted and replaced with '**Director of Children's Services**'

Adults and Older People

As the responsibility for the Blue Badge Service has now moved to the Executive Director (Resources and Community Safety), paragraph 1 from page 3/30 the list of powers applicable to Adults and Older People is to be deleted. (Text to be deleted shown below in italics):

1. *To exercise the function of the Council in relation to the use of badges for display on disabled persons' motor vehicles.*

This paragraph will be inserted on page 3/23 under the General Section of the Executive Director (Resources and Community Safety) list of powers as paragraph 4.

4. **To exercise the function of the Council in relation to the use of badges for display on disabled persons' motor vehicles.**

As the responsibility for Adult Social Care has temporarily moved to the Chief Executive paragraphs 1 to 17 are to be deleted and inserted on page 3/20 after paragraph 9 (Text to be deleted below in italics):

<i>To act as Director for Adult Social Care in accordance with Section 6 of the Local Authority and Social Services Act 1970 (as amended) and in particular in relation to the following functions:-</i>	
Services for Adults and Older People	
1.	<i>To accept Guardianship applications under Section 8 of the Mental Health Act.</i>
2.	<i>To consent under Section 8(4) of the Mental Health Act 1983 to any amendment of any Guardianship application which has been accepted or any medical recommendation.</i>
3.	<i>To designate Approved Social Workers as Officers for the purposes of the Mental Health Act 1983.</i>

4.	<i>To maintain registers of sensory impaired and disabled persons.</i>
5.	<i>To take decisions in respect of the Council's functions acting as Administering Authority in connection with Supporting People.</i>
6.	<i>To approve the disposal of assets belonging to deceased residents to persons entitled to them after payment of proper claims on account of funeral expenses and sums due to the Council.</i>
7.	<i>To incur expenditure either directly or via provision of</i>
	<i>(a) equipment to persons permanently and substantially disabled;</i>
	<i>(b) for special purposes, e.g. recreational, educational and social facilities;</i>
	<i>(c) of adaptations to property occupied by persons permanently and substantially disabled.</i>
8.	<i>To approve augmentation for a person on a Blind Homemaker Scheme.</i>
9.	<i>To authorise the admissions and payment of purchases of all forms of residential, day and domiciliary care.</i>
10.	<i>To approve variations of fees so far as they have been agreed by the "Examining Authority" and for which the Council have accepted responsibility for children, young persons or adults attending or residing in establishments not maintained or assisted by the Council and to approve alterations in charges for the maintenance of such residents.</i>
11.	<i>To authorise payment for maintenance of people for whom the Council is financially responsible in homes provided by other local authorities and bodies.</i>
12.	<i>To approve expenditure incurred in the protection of movable property or persons and to recover such expenditure where applicable.</i>
13.	<i>To make assessment of contributions by persons provided with services and to approve variation of assessed charges to avoid hardship.</i>
14.	<i>To add additional persons to the list of Independent Chairmen of the Complaints Review Panel established under the National Health Service and Community Care Act 1990.</i>
15.	<i>To approve, following consultation with the appropriate Executive Councillor, the appointment of replacement visiting members of Social Services establishments.</i>
16.	<i>To approve agreements and contracts with or grants to voluntary organisations in undertaking the functions of Social Services Directorate and the services for which the Director is responsible.</i>

17. *To authorise under the provisions of the Human Tissue Act 1961 (where the Council is in lawful possession of the body) the removal of parts of the body of a deceased resident in accordance with the wish expressed by the resident during his/her lifetime.*

4.0 Part 4 – Rules of Procedure

Financial Regulations and Procedures – Financial Planning

Paragraph B9 has been amended to:-

B.9 Scheme appraisals are required where a scheme is over £500k in value and forms part of the already approved capital programme. These will normally be approved by the **relevant Executive Councillor with responsibility for financial matters**, who may also refer significant schemes to the Value for Money Overview and Scrutiny Committee for pre-decision scrutiny.

4.1 Contract Regulations – Procurement Processes Paragraph 3.3

Due to changes in the procurement processes, the following sentence is to be inserted under the Procurement Processes heading:

For quotations below £25,000 there is a requirement to use a local supplier where this gives value for money.

To reflect this change, paragraphs relating to quotations below £25,000 have been amended as shown below:-

Low Value Procurement (Below £5,000)

For these purchases direct approach to a single supplier is acceptable, competitive quotations are not required. The purchasing officer should be satisfied that the costs are reasonable. It is expected that ESPO will be considered for the majority of this type of purchase.

A local supplier should be used where appropriate. Where a local supplier is not used the reason must be recorded in writing.

Low Medium Value Procurement (£5,001 to £10,000)

For contracts or orders of a low medium value at least two written quotations should be sought. Where applicable, quotations should be sought from contractors on the Council's Approved List of Contractors. Where it is not possible to obtain two competitive quotes the officer must keep a record of the reasons for this.

At least one of the quotations must be from a local supplier and a local supplier should be used where they provide the most economically advantageous offer, Where a local supplier is not used the reason must be recorded in writing.

Middle Medium Value Procurement (£10,001 to £25,000)

For contracts or orders of a middle medium value at least three written quotations should be sought. Where applicable, quotations should be sought from contractors on the Council's Approved List of Contractors. Where it is not possible to obtain three competitive quotes the officer must keep a record of the reasons for this.

At least one of the quotations must be from a local supplier and a local supplier should be used where they provide the most economically advantageous offer, Where a local supplier is not used the reason must be recorded in writing.

5 Part 5 – Codes and Protocols

5.1 Section D6 Petitions Scheme

Page 5/51 from the Paragraph starting "Council Meetings take place", second sentence, the removal of the words:

"or would like your Councillor"

6. Part 7 – Management Structure

A revised version of the Management Structure is detailed at Appendix A to this report.

2. Conclusion

The Constitution requires to be updated to reflect current legislation and internal reorganisation therefore, on this basis this report is brought to full Council.

3. Legal Comments:

The report reflects the required changes to the Constitution from a legislative perspective. The comments are lawful and within the remit of Full Council.

4. Resource Comments:

There are no material financial implications from accepting the recommendations in this report.

5. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

n/a

d) Policy Proofing Actions Required

n/a

6. Appendices

These are listed below and attached at the back of the report	
Appendix A	Senior Management Structure

7. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Katrina Cope, who can be contacted on 01522 552104 or katrina.cope@lincolnshire.gov.uk.