

**Open Report on behalf of Richard Wills, Monitoring Officer**

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| Report to: | <b>County Council</b>              |
| Date:      | <b>19 May 2017</b>                 |
| Subject:   | <b>Changes to the Constitution</b> |

**Summary:**

The Report invites the Council to consider a number of changes to the Constitution as follows:-

- to consider the remit of the Environment, Economy and Transport Scrutiny Committee and determine whether there is a need to increase the number and amend the terms of reference and size of scrutiny committees;
- to correctly align delegations with the responsibilities of Chief Officers; and
- to implement amendments caused by reduction in size of Council from 77 to 70 members.

**Recommendation(s):**

That the Council

- 1 approve the amendments to the Constitution at Part 1 (Summary), Part 2 (Articles) and Part 4 (Rules of Procedure) attached at Appendix A
- 2 approve the amendments to Part 3 (Responsibility for Functions) attached at Appendix B to the Report; and
- 3 review the options set out in the Report in relation to the Scrutiny Committees and if it approves changes to the said Committees, approve the amendments to Part 1 (Summary) and Part 2 (Articles) of the Constitution attached at either Appendix C or Appendix D to this report.

**1. Background**

1.1 The last Council undertook a review of scrutiny arrangements. The final report was accepted by the Council at its meeting in December 2016 and the Constitutional arrangements were amended at the Council's meeting in February this year.

1.2 The Council adopted a structure with an Overview and Scrutiny Management Board, five scrutiny committees and two scrutiny panels. It was agreed to implement this new structure with effect from 1 May 2017, in the knowledge that the new Council would have an opportunity to take a view on the arrangements.

1.3 Concern has been expressed that the Environment, Economy and Transport Scrutiny Committee may have too wide a remit to be effective.

1.4 In particular, highways matters are a significant part of the Council's activities and there are significant pressures on the service. Although the Council's direct budget for economic growth is relatively small, the Council does have a considerable interest in Lincolnshire achieving good economic outcomes. Many of the Council's activities have an impact on the economy of the Council, not least its overall spending power. The built and natural environment of the County is of great importance for the well-being of local people and as an economic asset for the tourist sector. The waste elements of the environment portfolio are also significant and are one of the most difficult parts of the Council's budget to control.

1.5 Members of the Council are invited to consider whether the remit is too wide. There are at least two principal options for reorganising the scope into two committees:

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| <p><b>Option 1:</b><br/>Highways and Transport Scrutiny Committee<br/>PLUS<br/>Environment &amp; Economy Scrutiny Committee</p>   | <p>This neatly draws out the highways and transport functions that form a significant part of the Council's budget. The environment is a significant economic asset. <i>Highway operations and projects have a significant impact on the economic well-being of the County, but this arrangement separates those scrutiny functions.</i></p>  |
| <p><b>Option 2:</b><br/>Highways and Economy Scrutiny Committee<br/>PLUS<br/>Environment, Waste &amp; Transport <sup>[note 1]</sup> Scrutiny Committee<br/><i>Note 1: Transport could be part of Highways &amp; Economy</i></p> | <p>This brings together the inter-linked highways and economic growth aspects of scrutiny. There may be benefits of identifying public transport as a contributor to a better environment. <i>The value of the environment to the economy could be lost. Transport in its widest sense does not lie easily alongside waste. Removal of Transport from Environment and Waste may leave the remit of the resulting Committee too small to guarantee business for the meetings of the Committee. Previous committees with a similar remit have had meetings cancelled due to lack of business.</i></p> |
| <p><b>Option 3:</b><br/>Do not change the presently agreed arrangement:<br/>Environment, Economy and Transport Scrutiny Committee</p>   | <p>This brings most built and natural environment issues together with economy.<br/><br/><i>The remit is very wide.</i></p>   |

1.6 Members are invited to consider whether the remit of the proposed Environment, Economy and Transport Scrutiny Committee is too wide and, if so, choose their preferred option. The constitutional changes consequent on adoption of Option 1 and Option 2 are set out in Appendix C and Appendix D respectively. If the Council resolves to adopt either of those two options it is asked to approve the constitution changes set out in the relevant Appendix. In the case of Option 2 the relevant changes which will apply will be those that follow from the Council's decision as to whether Transport is to be included with Highways and Economy or Environment and Waste.

1.7 The changes in Appendix C and Appendix D also include increases in the size of other Scrutiny Committees from 9 members to 11 and reductions in Overview and Scrutiny Management Board and Children and Young People Scrutiny Committee from 15 and 13 members respectively to 11 as set out in the changes to Annex A to Part 2 of the Constitution as set out in Appendix C and Appendix D to this Report.

1.8 The Constitution does not allow resolutions to be rescinded within six months of them being agreed. However, this does not rescind the new overall scrutiny arrangements, only refines the structure and remit of scrutiny committees, maintaining all the other processes and intentions accepted from the review.

## **2. Changes to Chief Officer Delegations**

2.1 At its meeting on 16 September 2016 the Council approved a number of changes to the delegations to Chief Officers contained in Part 3 of the Council's Constitution (Responsibility for Functions). The amendments followed from a realignment by the Chief Executive of the responsibilities of Chief Officers following the departure of the Director of Public Health.

2.2 As part of that realignment, responsibility for Traveller Liaison and Blue Badge transferred to the Executive Director for Finance and Public Protection. Unfortunately the changes to the Constitution recommended on 16 September 2016 delegated the functions relating to these areas to the Director for Adult Care and Community Wellbeing. It is necessary to correct this by moving the relevant delegations to the Executive Director for Finance and Public Protection.

2.3 The necessary changes are shown marked at Appendix A.

## **3 Reduction in the size of the Council**

3.1 Appendix A sets out some minor amendments to Part 1 (Summary), Part 2 (Articles) and Part 4 (Rules of Procedure) of the Constitution required to reflect the reduction in the size of the Council from 77 members to 70.

## **4 Heritage and Tourism**

4.1 The amendments set out in Appendix C and Appendix D include Heritage Services being moved to within the remit of the Communities and Public Protection

Scrutiny Committee rather than the Environment, Economy and Transport Scrutiny Committee although Tourism would remain within the remit of the latter Committee.

## **5. Legal Issues:**

### Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- \* Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- \* Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- \* Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- \* Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- \* Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- \* Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding

Compliance with the duties in section 149 may involve treating some persons more favourably than others

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

There are not considered to be any equality impacts of the proposed changes. Individual decisions taken under the delegations will be subject equality impact assessments.

Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision.

The changes to the Constitution have no immediate impact on the JSNA or the JHWS.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

The changes to the Constitution have no immediate impact on the matters referred to in section 17 of the Crime and Disorder Act 1998.

**6. Conclusion**

The Council is recommended to approve the recommended amendments to the Constitution to ensure the delegations contained in Part 3 of the Constitution correctly reflect the managerial responsibilities of the Council's Chief Officers; that the size of Council is properly reflected in Part 1 (Summary), Part 2 (Articles) and Part 4 (Rules of Procedure) of the Constitution and consider what of the proposed changes, if any, it wishes to make to the scrutiny structure.

**7. Legal Comments:**

The proposed changes to the Constitution are lawful and comply with the Council's processes as defined in the Constitution. Changes to the Council's Constitution must be approved by the full Council.

**8. Resource Comments:**

The changes would need to be made within existing resources, so this would require priorities to be set for Democratic Services staff in respect of the scrutiny arrangements.

## 9. Consultation

### a) Has Local Member Been Consulted?

n/a

### b) Has Executive Councillor Been Consulted?

n/a

### c) Scrutiny Comments

The matter has not been subject to scrutiny.

### d) Have Risks and Impact Analysis been carried out?

Yes

### e) Risks and Impact Analysis

See the body of the Report.

## 10. Appendices

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| These are listed below and attached at the back of the report |  |
| Appendix A  | Amendments to Parts 1, 2 and 4 to the Constitution         |
| Appendix B  | Amendments to Part 3 of the Constitution                   |
| Appendix C  | Amendments to Parts 1 and 2 of the Constitution – Option 1 |
| Appendix D  | Amendments to Parts 1 and 2 of the Constitution – Option 2 |

## 11. Background Papers

The following Background Papers were used in the preparation of this Report

| Document title  | Where the document can be viewed |
|---|----------------------------------|
| Report to Council 16 December 2016 – Agenda Item "Review of Scrutiny"           | Democratic Services              |
| Council Constitution  | Democratic Services              |
| Report to Council 16 September 2016 - Agenda Item "Changes to the Constitution" | Democratic Services              |
| Report to Council 24 February 2017 – Agenda Item "Changes to the Constitution"  | Democratic Services              |

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