

Ward: ALL

Portfolio: Cross-cutting

FROM: Deputy Chief Executive and Monitoring Officer **Date:** 13 May 2019

SUBJECT: The Council's Constitution - Confirmation

Internal Use Only: Please complete sign off boxes below prior to submission to Democratic Services			
Report Sign off	Seen by:	Name	Date
	Legal	Lesley Dolan	30/04/2019
	Finance	Paul Deal	30/04/2019
	Chief Executive Officer	Stuart Brown	30/04/2019
Summary:	Pursuant to Section 4 of the Council's Constitution the Council is required to confirm the Constitution for the coming year (including the Scheme of Delegation to officers set out in Section 18) and approve any changes.		
Recommendation:	That Council: <ol style="list-style-type: none">1. Confirm the Constitution, including the amendments outlined in this report.2. Devolve the Council's planning control making functions in consultation with the relevant Ward Member, to a neighbouring Planning Authority with respect to cross boundary planning applications.3. Note the ongoing review of the Constitution and that the outcome of that review will be reported to Full Council in September 2019.		
Direct and/or indirect impact on service delivery to our customers and communities:	The Constitution ensures our customers and communities are clear on the Council procedures, which ensure decisions are taken efficiently and openly.		
Financial Implications:	There are no specific financial implications arising from the report.		
Legal Implications:	The Local Government Act 2000 requires the Council to have and maintain a Constitution.		

Crime and Disorder Implications:	There are no crime and disorder implications identified.
Equalities Implications:	There are no specific equality considerations that need to be taken into account in relation to this report.
Risk Assessment and Adverse Impact on Corporate Actions:	Reconfirmation of the Constitution ensures accountability therefore reducing risk of challenge. A failure to re-confirm the Constitution and approve changes may lead to unlawful decisions being taken.

INTRODUCTION

Changes to the Constitution are made throughout the year by the Council through its consideration of matters referred to it by the Monitoring Officer. In addition, the Monitoring Officer also has delegated authority to make amendments to the Constitution during the course of the year.

It is a constitutional requirement whereby each year, the Council (at its annual meeting) must adopt its Constitution for the forthcoming year.

Due to the large size of the Constitution, it has not be included with the agenda, but is available at <http://www.mendip.gov.uk/constitution>. A hard copy can be supplied on request by contacting the Member Support Officer on 01749 341341.

KEY UPDATES TO THE CONSTITUTION

The key updates to the Constitution are as follows:

Delegation to Group Manager Planning and Growth

From time to time the Council receives a planning application where the site straddles the administrative boundary between two Local Planning Authorities (LPAs). In such cases, and in line with the National Planning Practice Guidance (NPPG), two identical applications must be submitted to each LPA, identifying on the plans which part of the site is relevant to each.

With regard to the fee, again in accordance with the NPPG, the planning fee is only payable to the LPA of whichever area contains the larger or largest part of the whole application site.

In order to reduce the risk of two LPAs making individual determinations, imposing different conditions on the permissions and entering into separate S106 agreements on cross boundary applications, it is advisable to devolve authority to the LPA which holds the larger of the site area. This is recommended as it promotes a coordinated approach to development management and avoids the risk of inconsistent permissions being granted by each LPA.

Pursuant to Section 101(1) of the Local Government Act 1972 a Local Authority may arrange for the discharge of any of its functions by any other local authority.

As the Council would receive no fee for a cross boundary application where the majority of the site falls within the neighbouring authority, it would appear sensible to devolve its development control powers to neighbouring authorities rather than deal with planning applications on portions of sites where no fee would be received yet full costs incurred in the processing of the application.

Furthermore, as gaining the authority of Full Council to devolve our decision making powers to a neighbouring LPA on a case by case basis would result in delays of several months to such planning applications, it is considered that, in order to assist with the expediency of decision making and in order to be more pro-active and responsive in bringing potential development forward, Part 18 Schedule 1 Part A Section B Paragraph

2B (Page 16) should be amended to include the power for the Planning and Growth Group Manager to devolve the Council's planning control decision making functions, in consultation with the relevant Ward Member within which the application site is located, to a neighbouring planning authority with respect to cross boundary planning applications under Section 70(1) of the Town and Country Planning Act 1990.

Anti-Fraud & Corruption Policy

As part of a review of the Council's constitution minor updates have been made to the above policy. The alterations that have been made generally reflect changes to job titles and references to associated legislation and are not substantive in nature.

Whistleblowing Policy

As part of a review of the Council's constitution minor updates have been made to the above policy. The alterations that have been made generally reflect changes to job titles and references to associated legislation and are not substantive in nature.

Contract Procedure Rules

As part of the Procurement Service provided by Capita through the 5 Council's Contract it was anticipated that the above document would be updated and, as far as possible, amalgamated across the partnership. However, as a result of slower progress than originally hoped the Council's Contract Procedure Rules have been reviewed and updated independently to ensure they are fit for purpose. Once again the changes are minor in nature.

Phoenix Board

As part of the review of the Council's Constitution the role and operation of the Phoenix Board has been given its own specific section. This will ensure matters delegated to the Phoenix Board are consolidated into a single place within the Constitution. No changes have been made to how the Board operates following its establishment through the associated Cabinet Reports of September 2016 and January 2017 and it has been operating successfully since that time.

REVIEW OF CONSTITUTION

It is important that the Constitution of the Council is always kept under review to ensure it is modern and fit for purpose. The Council has recently reviewed the current document to identify any issues which need to be addressed. This has concluded that the constitution is sound, compliant and effective. However, the review has identified a number of areas where the document could be improved (whilst retaining intact the current overall structure).

In summary these are:

- a. There are places in the constitution where cross referencing would help to make the document much easier to understand.
- b. Hyperlinking related sections and supporting documents (enabling users to click on words in the document and be taken to another relevant section or an

associated document) would make the constitution easier to navigate and understand.

- c. There are sections that could be streamlined and clarified.
- d. There are sections of the document that have entered the Constitution over many years and while important, do not legally have to be included in the Constitution of a Council. The Council could decide to retain these, or they could be taken out and located elsewhere on the Council's website or accessed from the current document by hyperlinks.

This review is ongoing and proposed revisions to the current document will be reported to the Standards Committee in due course (which can then be recommended to the Council in September).

RECOMMENDATION

That Council:

1. Confirm the Constitution, including the amendments outlined in this report.
2. Devolve the Council's planning control making functions in consultation with the relevant Ward Member, to a neighbouring Planning Authority with respect to cross boundary planning applications.
3. Note the ongoing review of the Constitution and that the outcome of that review will be reported to Full Council in September 2019.

REASON FOR RECOMMENDATION

To comply with the Local Government Act 2000; and ensure the good governance of the Council; and expedite the planning decision making process to neighbouring Local Authority with respect to cross boundary planning applications.

Contact Officer: Donna Nolan
Ext No: 210
Email: Donna.Nolan@mendip.gov.uk

Background Papers – the Council's Constitution