

BRECKLAND DISTRICT COUNCIL

Report of: Monitoring Officer, Maxine O'Mahony
To: Council – 17 May 2018
(Author: Mark Stinson – Executive Manager for Governance)
Subject: Constitution Variations
Purpose: To consider variations to the Constitution

Recommendation(s):

- 1) That the minor variations made by the Monitoring Officer and listed in paragraph 1.2 of the report be endorsed and continue to have effect.
- 2) That the Monitoring Officer be authorised to amend Part 3 Section F1 of the Constitution to make it clear that where more than one officer is identified as a proper officer then each officer is a proper officer for matters falling within his/her respective jurisdiction.
- 3) That Part 3, Section F1, paragraph 15 of the Constitution be amended in accordance with paragraph 1.3 of this report
- 4) That the staffing delegations in Part 3, Section F1 of the constitution be amended in accordance with paragraph 1.5 of this report
- 5) That the definition of Planning Applications set out in Part 3, Section F3 of the Constitution be amended to include reference to the new form of planning application – application for planning permission in principle and technical details

1.0 BACKGROUND

1.1 The Council's constitution was approved by full Council at its meeting on 21 January 2016. Under Article 14, only full Council can make amendments to the Constitution, although certain amendments can be made by the Monitoring Officer subject to a subsequent report to the Council:

- a. A minor variation
- b. Removal of inconsistency or ambiguity
- c. To put into effect a decision of the Council or one of its committees

MINOR AMENDMENTS MADE BY THE MONITORING OFFICER

1.2 The following minor variations have been made by the Monitoring Officer, and the Council is now asked to endorse the same:

- Following the establishment of the new Contracts Team, references in the Contract Procedure Rules to the Corporate Improvement Team (who previously had responsibility for contract matters) have been deleted and replaced with references to the Contracts Team.

- Inaccurate cross-references in paragraphs 4 and 5 of Article 13 have been amended (they now cross-reference the correct Standing Orders 50 and 49 respectively).
- Inaccurate cross-references in the terms of reference for Council, in Part D of the Constitution. This has been amended to refer to the correct Standing Orders – 63, 64 and 64 respectively.
- Inaccurate cross-reference in Standing Order 49.3 which has been amended to read “paragraph 15c of Part F1” rather than ‘paragraph 6c of Part F1’.

OTHER PROPOSED AMENDMENTS

- 1.3 There is an inconsistency in Chief Officer general powers set out in Part 3, Section F1, paragraph 15(c). This paragraph appoints Chief Officers to be the proper officer for signing notices and other documents. The paragraph ends “this delegation may not be delegated further subject to (e) below”. However, paragraph 15(e) makes it clear that a Chief Officer may appoint someone to act in his/her place in his/her absence; or when he/she is otherwise not available; or in accordance with any general directions given by the Chief Officer. The words quoted in paragraph 15(c) are therefore redundant (and do not appear in relation to any other proper officer appointments). It is therefore recommended that the inconsistency is corrected by deleting the words “this delegation may not be delegated further subject to (e) below”.
- 1.4 In order to ensure clarity, it is also recommended that where any proper officer appointment refers to more than one officer holding that appointment, it be made clear that each of those officers are proper officer for matters falling within their respective jurisdictions. It is therefore proposed that the Monitoring Officer be authorised to make such changes.
- 1.5 Part 3, Section F of the Constitution contains a number of staffing delegations. Paragraph 15 delegates to Chief Officers the power to take disciplinary action in respect staff below grade 3b. This paragraph should also refer to capability, and it is proposed that the delegation be amended accordingly.
- 1.6 A change in the law, brought about by the Town and Country Planning (Permission in Principle) Order 2017, makes provision for a new type of planning application – application for permission in principle and associated technical details consent. Part 3 of the Constitution delegates to the Director responsible for Planning, authority to determine planning applications (except major/significant applications) so long as they are considered to be in compliance with overall planning policies and guidance as well as Local and Neighbourhood Plans. There is also a mechanism for applications to be referred to Committee in relevant circumstances. Paragraph 3(i)(c) of Part 3 of the Constitution defines planning applications for this purpose. It is therefore recommended that the existing definition be amended to reflect this new form of planning application.
- 2.0 **OPTIONS**
- 2.1 To approve or not approve the variations or to require alternative variations.
- 3.0 **REASONS FOR RECOMMENDATION(S)**
- 3.1 To remove anomalies, address minor typographical and numbering issues and to ensure the constitution is kept up to date with changes in law.

4.0 **EXPECTED BENEFITS**

4.1 Regular updates to the Constitution will ensure that it remains fit for purpose.

5.0 **IMPLICATIONS**

In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

5.1 **Constitution & Legal**

5.1.1 Amending the Constitution is a function that is reserved to Council

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 None

7.0 **ACRONYMS**

7.1 None

Background papers:- The Council's constitution which is available on the Council's website

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Key Decision: No

Exempt Decision: No