

Extraordinary (Informal Joint) Council



St Edmundsbury
BOROUGH COUNCIL

Title of Report:	Review of the Constitution: Part 3 – Functions and Responsibilities	
Report No:	COU/SE/15/032	
Report to and date/s:	Extraordinary Council	17 November 2015
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Purpose of report:	To present to Members a revised Part 3 of the Constitution and seek its adoption.	
Recommendations:	<p>It is <u>RECOMMENDED</u> that Council:</p> <p>(1) adopts the revised Part 3, Functions and Responsibilities, of the Constitution set out at Appendix A to Report No: COU/SE/15/032;</p> <p>(2) authorises the Monitoring Officer to make such changes or corrections to the text, numbering or layout of the adopted revised Part 3 that are necessary for consistency, accuracy, grammatical correctness and sense, and to remove any parts of the existing Constitution implicitly made redundant by the adoption of this Part 3, or which are otherwise obsolete, prior to its publication;</p> <p>(3) authorises the Monitoring Officer, in consultation with the Head of Paid Service, to make such further changes to the Scheme of Delegation to Officers from time</p>	

	<p>to time as are necessary or desirable to reflect changes in statutory responsibilities, staffing structures and so on, so long as those changes do not materially affect the powers conferred by the Constitution; and</p> <p>(4) adopts as a change to the Committee Procedure Rules regarding the continuance in office of committee chairmen, the amendment set out in paragraph 1.1.2 of Report No: COU/SE/15/032.</p>
<p>Key Decision:</p> <p><i>(Check the appropriate box and delete all those that do not apply.)</i></p>	<p><i>Is this a Key Decision and, if so, under which definition?</i></p> <p>Yes, it is a Key Decision - <input type="checkbox"/></p> <p>No, it is not a Key Decision - <input checked="" type="checkbox"/></p>
<p>Consultation:</p>	<ul style="list-style-type: none"> • The Joint Constitution Review Group has met twice and been further consulted on the form and content of Part 3. • Officers have been consulted on the form and content of the Scheme of Delegation to Officers.
<p>Alternative option(s):</p>	<ul style="list-style-type: none"> • Council in July 2015 approved the format for a revised Part 3 to follow on from the adoption of new, harmonised Articles and Rules of Procedure in March 2015 by the West Suffolk councils, therefore no other options have been considered in the preparation of this paper.
<p>Implications: The adoption by each West Suffolk council of a harmonised Part 3 continues the work already begun on the Constitution. It will reduce the scope for mistakes which arises from each council working to different procedures and delegations. Time will be saved and efficiency increased if officers do not have to consult separate documents.</p>	
<p>Are there any financial implications? <i>If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <ul style="list-style-type: none"> •
<p>Are there any staffing implications? <i>If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <ul style="list-style-type: none"> •
<p>Are there any ICT implications? <i>If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <ul style="list-style-type: none"> •
<p>Are there any legal and/or policy implications? <i>If yes, please give details</i></p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <ul style="list-style-type: none"> • It is desirable to adopt a scheme of delegation of functions that reflects current practice as this is legally robust if there is a challenge to the authority of the Council, its committees or officers.
<p>Are there any equality implications? <i>If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <ul style="list-style-type: none"> •

Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Confusion, mistakes and legal challenge if delegations in the constitution do not reflect actual council and officer practice	High	Adoption of revised Part 3 and ongoing review to ensure it is up to date.	Low
Ward(s) affected:		Not applicable	
Background papers: <i>(all background papers are to be published on the website and a link included)</i>		None	
Documents attached:		Appendix A: Draft Revised Part 3 – Functions and Responsibilities	

1. Key issues and reasons for recommendation(s)

1.1 Background

- 1.1.1 At its meeting on 7 July 2015, Council approved a format for Part 3 of the revised Constitution, and that a Joint Review Group be set up to assist the Monitoring Officer with the drafting of all sections except the Scheme of Delegation to Officers. This Scheme was dealt with by the Monitoring Officer under the delegation given by Council on 16 December 2015 and is now brought to Members for approval in its current form, and to seek specific delegation to make further amendments as and when needed.
- 1.1.2 The Group also wished to make a recommendation with regard to the chairing of committees and sub-committees. At the behest of Members, provision was made in the Procedure Rules for those Chairmen and Vice-chairmen who are not elected at the Annual Meeting to continue in office until the first meeting of the (sub) committee after the Annual Meeting. This was a sensible change to enable any queries, for example about the content of the agenda, to be referred to an appropriate Member pending the first meeting. However, the Group considered that it would be desirable to amend the Procedure Rules to make it clear that the previous year's Chairman does not take the chair for that first meeting, as this would mean s/he presided at the election of the new Chairman and could, in theory, be in a position of exercising a casting vote. They recommend therefore that rule 6.2 of the Committee Procedure Rules be amended as follows:

The members who were Chairman and Vice-chairman prior to the Annual Meeting will, if still in office and members of the relevant committee or sub-committee, remain in post until ~~the new Chairman and Vice-chairman are elected~~ ***immediately prior to its first meeting after the Annual Meeting.***

1.2 Reasons for Recommendations

- 1.2.1 The draft revised Part 3 is constructed as it is so as to align both Constitutions in a common format. Its purpose is to show what matters are decided by which body of Members, or by which officer, and as such it is an essential reference document. The format and content are as recommended by the Joint Constitution Review Group.
- 1.2.2 Several references have been removed to old legislation and to functions and practices which are now obsolete.
- 1.2.3 There are also alterations to the job titles of several officers referred to in the Scheme of Delegations which need to be clarified by this change.

The new format involves five separate Sections which are set out as follows:

Section 1 sets out the primary decision making body for various functions, known as Local Choice functions because they may be allocated to Cabinet or Council as the authority chooses. As has been previously reported to Members, there is likely to be an opportunity to amend these in the near future as a revised and consolidated set of regulations is expected, therefore

no changes to the current allocations are recommended at present. Members should also note that in most cases these decisions are further devolved to committees or officers, so the table indicates only the ultimate decision-making body if any given matter needs to be referred upwards.

Section 2 shows the functions, terms of reference and (if relevant) procedures of the authority's committees, which have been updated with current practice and job titles.

Section 3 describes each portfolio in the Cabinet.

Section 4 sets out the officer delegations, and is subject to ongoing revisions necessary to keep it up to date.

Section 5 sets out the Member Job Descriptions (JDs) approved by the Group. The minor amendments to existing JDs proposed by the Group are highlighted.

- 1.2.4 The additional amendment regarding changes to the tenure of Chairmen and Vice-chairmen removes any ambiguity surrounding these roles' duration and avoids any possible concern over being in a position of possibly presiding over their own re-appointment.