


Agenda Item No:	10	
Committee:	Cabinet	
Date:	26 February 2024	
Report Title:	Constitutional Amendments	

1 Purpose / Summary

- 1.1 This report requests that Cabinet recommend amendments to the Constitution for approval by Full Council.

2 Key Issues

- 2.1 Amendments to the Constitution can be made upon the recommendation of Cabinet to Full Council.
- 2.2 It is the responsibility of the Monitoring Officer to keep the Constitution under review and to make recommendations as to how it could be amended to better achieve the purposes set out in Article 1.

3 Reasons for Recommendations

- 3.1 The proposed changes to the Constitution identified in this report are designed to ensure the effective delivery of services and the Council's representation on Outside Bodies.
- 3.2 Specifically, the recommendations engage the specific Article 1 purposes of:
- Paragraph 3.1(d) helping Councillors represent their constituents more effectively; and
 - Paragraph 3.1(e) enabling decisions to be taken efficiently and effectively

4 Recommendations

- 4.1 Cabinet are requested to recommend for approval by Full Council the following changes to the Constitution:
1. At Part 3, Table 4, paragraph 71a, to amend the existing wording of the Constitution as follows:

To authorise the allocation of external funding awarded to the Council, the approval of the Council's acquisitions of goods, services and works (whether following a procurement exercise or otherwise) and entry in to the associated financial and legal agreements up to £100,000 in consultation with the relevant portfolio holder and Leader of the Council.

2. At Part 3, Table 5, paragraph 10, to amend the existing wording of the Constitution as follows:

To authorise the allocation of external funding awarded to the Council, the approval of the Council's acquisitions of goods, services and works (whether following a procurement exercise or otherwise) and entry in to the associated financial and legal agreements up to the following limits:

Value	Designation
Up to £100,000	Corporate Directors in consultation with the relevant Portfolio Holder and Leader of the Council.
Between £100,001 and £500,000	Cabinet Member and Leader of the Council
Over £500,001	Cabinet

3. At Part 4, Council Procedure Rules, paragraph 28 which relates to Substitutions, the addition of a new paragraph 28.7 which states:

“Where Outside Bodies are concerned, the Leader of the relevant political group may nominate an alternative attendee where exceptionally, neither the approved substantive or substitute members are able to attend a meeting of the relevant Body and provided that the Body’s Constitution/Terms of Reference permit that attendance”.

4. Save in so far as a function is delegated to a specific member of the Corporate Management Team such as the Chief Executive, s.151 Officer and/or Monitoring Officer, for the Constitution to be amended so that ‘Corporate Directors instead reads ‘Corporate Directors and Assistant Directors’ with the associated delegations then equally applying to them.
5. For Part 7 of the Constitution, Management Structure to be amended in accordance with the proposals set out at Appendix 1.
6. At Part 3 Responsibilities for Functions, 3.3 Executive Advisory Committees, 3.3.3 RURAL & FARMING EXECUTIVE ADVISORY COMMITTEE to add to the terms of reference to include:
 - Reflect upon flooding issues affecting the District

Wards Affected	All
Forward Plan Reference	N/A
Portfolio Holder(s)	Cllr Boden, Leader and Portfolio Holder for Governance
Report Originator(s)	Paul Medd, Chief Executive Carol Pilson, Corporate Director and Monitoring Officer Peter Catchpole, Corporate Director and S151 Officer Amy Brown, Assistant Director Anna Goodall, Assistant Director Dan Horn, Assistant Director
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Background Papers	Fenland District Council's Constitution

Report:

1 BACKGROUND AND INTENDED OUTCOMES

- 1.1 Article 15, paragraph 2.1 of the Constitution specifies that it is a key role for the Monitoring Officer to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1.
- 1.2 Article 1 of the Constitution specifies that the purpose of the Constitution is to:
- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
 - (b) support the active involvement of citizens in the process of local authority decision making;
 - (c) support the Council in achieving its strategic vision for the District.
 - (d) help Councillors represent their constituents more effectively;
 - (e) enable decisions to be taken efficiently and effectively;
 - (f) create a powerful and effective means of holding decision-makers to public account;
 - (g) ensure that no one will review or scrutinise a decision in which they were directly involved;
 - (h) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
 - (i) provide a means of improving the delivery of services to the community.
- 1.3 It is proposed that Cabinet recommend the Monitoring Officer's proposals for approval by Full Council for the reasons set out in this Report and in support of the purposes set out at paragraph 3.1(d) and 3.1(e) above.

2 REASONS FOR RECOMMENDATIONS

- 2.1 *In relation to Recommendations 1 and 2:*
- 2.2 Current officers have delegated authority to take decisions up to the value of £50,000, individual Cabinet Members up to the value of £250,000 and Cabinet decisions of any value, provided they are within the approved budget but primarily valued at £250,001 and above save in respect of the allocation of grant funding where the levels were increased as described in December 2020.
- 2.3 The delegations (other than in respect of grant funding) have remained unchanged for many years and, having regard to ongoing increases in market values for goods, services and works have effectively decreased in value

meaning that they are no longer as relative as first intended. The impact of this is that there are an increasing number of contract awards which require Cabinet approval which could have been approved via a Cabinet Member Decision Notice and similarly which require Cabinet Member approval which could have been approved via an Officer Decision Notice. In turn this has an additional impact on officer and member capacity and the timing with which decisions can be made. For instance, unless exceptional circumstances exist, Cabinet Decisions must be taken during an ordinary meeting of the Cabinet whereas a Cabinet Member can take a decision more immediately (unless it is a key decision where additional time-constraints apply).

- 2.4 Whilst the proposed changes will enable Officers and individual Cabinet Members to take an increased number of decisions, the level of transparency will not decrease. In particular, notice of key decisions (those with a value/saving of over £100,000 (or in respect of the acquisition or disposal of property £250,000) or which will have a significant impact on 2 or more wards will continue (as statutorily required) to be published in the Forward Plan 28 days prior to the decision being taken. Further, the Overview and Scrutiny Panel will, along with the relevant decision maker, continue to receive a copy of the draft decision notice 3 working day's prior to a Key Decision being taken and all Decision Notices (key and non-key) will continue to be published on the Council's website.
- 2.5 The aim of the proposed changes is therefore to ensure that outcomes can be achieved in the most effective and efficient way having regard to the ordinary business of the Council as it is now and the related value of those decisions in the current economic climate.
- 2.6 *In Relation to Recommendation 3*
- 2.7 At its first meeting of the municipal year, Cabinet is responsible for reviewing and agreeing the list of outside bodies and making nominations for representatives to be aligned to those organisations.
- 2.8 The nomination process includes the allocation of substantive and substitute seats in accordance with political proportionality requirements. However, as the number of seats available on any one body can be as little as one, there are some very exceptional circumstances where, due to current constitutional requirements, it would not be possible to for anyone else to attend in the nominated member's place.
- 2.9 The aim of the proposed change is therefore to ensure that Councillors are able to represent their constituents more effectively by enabling, in exceptional circumstances where neither the substantive or substitute member can attend, for the one-off nomination of an alternative attendee by

the relevant group Leader and provided that such an arrangement accords with the governance requirements of the relevant outside body (this to be confirmed by the Chair/lead representative/advisor of that Body).

2.10 *In Relation to Recommendations 4 and 5*

2.11 In December 2022, following an internal recruitment process, changes to the Corporate Management Team were approved and saw the introduction of 3 Assistant Director roles. The new arrangements have embedded well over the last year and in order to strengthen the resilience and capacity that the roles were designed to provide, it is now proposed that references to the 'Corporate Management Team within the Constitution (save in respect of those delegations which are post specific e.g. Chief Executive, Monitoring Officer, Chief Finance Officer etc) should now include reference to the Assistant Directors.

2.12 The proposed changes will enable the Assistant Directors to take the same decisions as the Corporate Directors within their areas of functional responsibility and/or on behalf of other members of the Corporate Management Team as required. This again ensures that outcomes can be achieved in the most effective and efficient way.

2.13 *In Relation to Recommendation 6*

2.14 Due to the recent flooding issues in the District, Members consider adding an oversight of matters relating to flooding would be a helpful and useful role for the Committee and therefore this has been added to the terms of reference.

3 CONSULTATION

3.1 There are no specific consultation requirements in relation to the proposed amendments to the Constitution however, the recommendations have been made by the Monitoring Officer in consultation with CMT colleagues and the Head of Procurement. The ultimate decision as to whether the proposed changes are made will rest with all members at Full Council.

4 ALTERNATIVE OPTIONS CONSIDERED

4.1 The primary alternative to the proposals set out in this report is to maintain the status quo. Delivery of the Council's functions would remain lawful and operational should the status quo be maintained however, the changes proposed within the report are designed to enhance the current position and the Purposes identified within the Article 1 of the Constitution.

- 4.2 As regards the proposed changes to the delegation levels, alternative figures could be proposed and agreed however, the figures that have been put forward for consideration reflect the existing arrangements that are already in place with regard to grant funding and which have worked well to date.

5 IMPLICATIONS

5.1 Legal Implications

- 5.2 The proposed changes set out in this Report reflect Fenland District Council's legislative and Constitutional obligations.

5.3 Financial Implications

- 5.4 There are no specific financial implications. The proposals set out in this Report to not require any additional expenditure or change the overall value of the decisions to be taken. In some instances where decisions can be taken by officers rather than Cabinet Members or Cabinet Members rather than Cabinet there will be time and efficiency savings but it is difficult to measure this in precise financial terms.

5.5 Equality Implications

- 5.6 There are no specific equality implications.

6 SCHEDULES

Schedule 1 – Part 7 of the Constitution as amended.

SCHEDULE 1
Part 7 - Constitution

PART 7

MANAGEMENT STRUCTURE

MANAGEMENT STRUCTURE

Corporate Management Team shall be:

