

South Lakeland District Council
Council
23 February 2021
Updates to the Councils Constitution

Portfolio: Cllr Dixon Portfolio Holder Customers and Communities
Report from: Linda Fisher Monitoring Officer
Wards: All
Forward Plan: Not applicable

1.0 Expected Outcome

1.1 That the amendments to the Constitution are agreed to clarify the Constitution and its delegations pending a further review to be reported to the March 2021 Council meeting. That Council agree to the establishment of a Constitutional Working Group.

2.0 Recommendation

2.1 It is recommended that Council:-

- (1) Agree the proposed amendments to the Constitution outlined in paragraphs 3.2, 3.3, 3.4 and 3.5; and**
- (2) Notes that the Monitoring Officer will make any additional consequential changes to the constitution to take account of these proposals if agreed by Council.**
- (3) Agrees to the establishment of a Constitutional Working Group to comprise of the Leaders of the Political Parties, Cllr Filmore and the Customer and Communities Portfolio Holder.**
- (4) To authorise the Monitoring Officer to make all necessary changes to the Constitution to bring into effect the changes to Job Titles relating to Customer Connect.**
- (4) Notes that all consultation responses received to date regarding amendments to the constitution will be considered by the Monitoring Officer and a further report will be brought to the March 2021 Council meeting.**

3.0 Background and Proposals

3.1 One of the duties of the Monitoring officer is to monitor and review, on an annual basis, the operation of the Constitution to ensure that its aims and principles are given full effect. Rather than carrying out an annual review it is considered more appropriate to treat the Constitution as a living document and we encourage in year amendments to the Constitution to ensure that it is kept up to date and meets the business needs of the Council.

The Councils current Monitoring Officer commenced work at the Council in August 2019 and has consulted Council officers, members, parish councils and the public on the current constitution. In 2020 proposals for changes to the Officer Scheme of Delegation and streamlining decision making relating to Procurement decision making were brought to the July 2020 Council meeting.

The Monitoring Officer is currently consulting the Leadership Team and Officers on the Procurement Procedure Rules and Contract Procedure Rules. It is anticipated that the proposed changes will be brought to the March Council meeting.

However there are 4 areas which the Monitoring Officer has identified that require amendment and Councils approval is sought to make these changes.

3.2 **Proposal 1**

To clarify that the Chief Executive has the authority to exercise any power which have been delegated. Also to make it clear that those to whom power has been delegated may sub delegate the power with such sub delegation being recorded in writing and submitted to the Monitoring Officer.

Inability to Act

Proposed Part 3, 3 B General 1.3 The most relevant Director , or the Chief Executive is authorised to act on any matter in the absence of another Director, unless prevented in law.

That a new clarification is inserted within the constitution as follows.

Proposed Part 3, 3 B General 1.4 Other than where the law does not allow, any Director or Officer of the Corporate Management Team is authorised to act in the absence of the Chief Executive. That all powers delegated within the Constitution in Part 3 Scheme of Delegation to Officers permit those with the delegated power to sub delegate in writing. E.g. Chief Executive to Director Director to Director, Director to Lead Specialists. Copies of such delegations will be maintained by the Monitoring Officer.

3.3 **Proposal 2**

Proposed new wording

C 1. (1.1) DELEGATION FROM THE PLANNING COMMITTEE

That the scheme of delegation and delegations to the Director of Customer and Commercial Services is updated to insert a new 1.9. To make it clear that applications for variations and subsequent approvals of variations to S106 agreements remain delegated unless in the opinion of the Director of Customer and Commercial Services and the Chair of the Planning Committee consider that the Planning Committee should determine the application for the variation.

1.9 Any application for a variation to a S106 agreement which is contrary to Council Policy and/ or the Director of Customer and Commercial Services and the Chairman of the Planning Committee consider the views of Members are considered to be desirable or essential.

3.4 **Proposal 3**

Proposed new wording

The Neighbourhood Planning (Referendums) (Amendment) Regulations 2016 require a local planning authority to designate, without publication, an application by a Parish

or Town Council for the designation of a Neighbourhood area, where the application relates to the whole of the Parish Council's area.

However SLDC's constitution (para 1.4, page 68) continues to require publication of such applications and taking objections into account in a delegated decision by the Director of Strategy, Innovation and Resources

The issue has arisen in a recent application from Burneside Parish Council. We consider that the Constitution therefore requires amendment to bring it into line with the Neighbourhood Planning Regulations, to exclude the need for publication of neighbourhood area applications which relate to the whole of a Parish Council's area.

Proposed new wording

1.4 To the Director of Strategy, Innovation and Resources

(a) In accordance with CEX/124 (2014/15), to approve applications for the designation of Neighbourhood areas in respect of parishes that are wholly or partly outside the Lake District National Park and Yorkshire Dale National Park only where:

(i) the applications relate to the designation of single whole parishes, excluding areas of any other parishes;

Deletion of "(ii) no substantive objections are received" and replace with (ii) there being no requirement to consult on proposals which relate to the whole of a Parish Council's area.

3.5 Proposal 4

Cabinet last approved an updated Statement of Community Involvement (SCI) in July 2018. It is proposed that the Constitution is amended so that the Director of Strategy, Innovation and Resources has delegated authority to update the SCI.

Proposed new wording

5. Delegation to Officers from Leader /Cabinet

To the Director of Customer and Commercial Services

1.3 (x) To update the Councils Statement of Community Involvement.

4.0 Consultation

4.1 Regarding the proposed changes consultation has taken place with the Leader, Portfolio Holder, Chairman of the Planning Committee, Leaders of the Political Parties and Cllr Filmore.

5.0 Alternative Options

5.1 Members could chose not to approve the changes as proposed, or to make amendments to the proposals. However it is considered the proposed amendments are required as part of the good governance of the Council and to ensure that appropriate controls are in place.

6.0 Links to Council Priorities

6.1 The Constitution underpins the Council's decision making processes in achieving the aims and objectives of the Councils priorities.

7.0 Implications

Financial, Resources and Procurement

7.1 There are no financial implications arising from this report.

Human Resources

7.2 There are no financial implications arising from this report.

Legal

- 7.3 The changes proposed have been identified by officers and are required to ensure that we have a clear and up to date Constitution.

Health, Social, Economic and Environmental

- 7.4 Have you completed a Health, Social, Economic and Environmental Impact Assessment? No
- 7.5 If you have not completed an Impact Assessment, please explain your reasons: There are no health, social, economic and environmental impacts relating to the proposed amendments.

Equality and Diversity

- 7.7 Have you completed an Equality Impact Analysis? No
- 7.8 If you have not completed an Impact Assessment, please explain your reasons: There are no equality implications arising from this report.

Risk

Risk	Consequence	Controls required
The risk is ambiguity within the constitution and incorrect decision making.	Challenge to the Councils decision making decisions.	The amendments are proposed to manage this risk.

Contact Officers

Background Documents Available

Name of Background document	Where it is available
Councils Constitution	https://www.southlakeland.gov.uk/your-council/councillors-and-decisions/council-constitution/

Tracking Information

Signed off by	Date sent	Date Signed off
Section 151 Officer	05/02/2021	11/02/2021
Monitoring Officer	Report Author	05/02/2021
CMT	11/02/2021	11/02/2021

Circulated to	Date sent
Lead Specialist	N/A
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	11/02/2021
Committee Chairman	N/A
Portfolio Holder	05/02/2021
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	N/A
Chair of the Planning Committee	11/02/2021
Deputy Leader	05/02/2021
Council	23/02/2021