

# Governance Improvement

Clare Pattinson



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# A bit about me.....

- Working in local government legal department for 20+ years
- District, unitary and combined authority
- Appointed Monitoring Officer / Deputy at 7 authorities
- Experienced in drafting, revising and interpreting constitutions
- Familiar with the judicial reviews that occur when there are failings of governance, especially around schemes of delegation

# What have I been asked to do?

- Review your constitution to iron out some issues that have been identified since it was adopted in 2023
- Review / create a suitable scheme of delegation that reflects what the Council has delegated to officers and provides clarity to members and officers
- Facilitate the update of both in consultation with officers and members

# What are the issues with the constitution?

- Duplication
- Contradiction / inconsistent
- Incomplete
- Hard to navigate



# Constitution review process

- ✓ Read and make notes on the constitution
- ✓ Get views of Democratic Services and MO / DMO what issues are
  - Invite officers to provide views on the constitution
  - Seek views of members
  - Update the constitution

# Constitution review presentation

- Track changed Microsoft Word version – all changes able to be seen in one document
- 3 column table showing current paragraph, the issue, and the proposed solution
- PDF complete current constitution and complete proposed constitution

# 1 Introduction

This section explains how the Council operates. It summarises the main provisions of this Constitution. If you would like to see the detailed provisions in relation to a particular Council function, you should refer to the relevant section of the Constitution.

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Capitalised words used in this section 1 (and throughout the Constitution) are defined in section 2.2.

## 1.1 What is the Constitution?

1.1.1 The Constitution sets out how the Council operates, how decisions are made, and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to determine. The Constitution is adopted, and amended, by the Full Council

1.1.2 The Constitution contains 24 sections which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are set out in separate rules and protocols at the end of this document.

## 1.2 How does the Council operate?

1.2.1 The Council is composed of a Mayor and 46 Councillors. The Full Council elects a Chair of the Council and decides the Council's overall policies and Budget each year (see further the Budget and Policy Procedure Rules at Section 17 of this constitution). It also appoints various Committees to undertake functions it delegates to them.

Clare Pattinson Moved (insertion) [1]

Clare Pattinson Deleted: Members

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1.2.2 The Mayor is directly elected by the electors of the Borough, normally for four years. The Mayoral election is held on the same day that Councillors are elected to represent each of the Wards within the Borough, which usually takes place on the first Thursday of May every 4 years. The last election was in 2023.

1.2.3 The Mayor and the Councillors are collectively known as "Members" of the

Clare Pattinson hyperlink @mention or reply

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| URN | Section          | Para no. | What it says   | Issue  | Proposed solution   |
|-----|------------------|----------|--|--|---|
|     | Index            |          | Word version of constitution does not provide for Appendices 3 – 5. Internet pdf version has two Appendix 2's and ends at 5 instead of 6.  | Index needs to be accurate once the constitution is thoroughly updated   | Apply correct sequential numbering  |
|     | 1 – Introduction |          | This section explains how the Council operates. It summarises the main provisions of the Constitution. If you would like to see the detailed provisions in relation to a particular Council function, you should refer to the relevant section of the Constitution. Capitalised words used in this section 1 (and throughout the Constitution) are defined in section 2.2. | <ul style="list-style-type: none"> <li>- Minor amendment to improve readability.</li> <li>- Left justification of text throughout the document to comply with accessibility standards</li> </ul> | <p>This section explains how the Council operates. It summarises the main provisions of this Constitution. If you would like to see the detailed provisions in relation to a particular Council function, you should refer to the relevant section of the Constitution.</p> <p>Capitalised words used in this section 1 (and throughout the Constitution) are defined in section 2.2.</p> |
|     | 1 – Introduction | 1.1.1    | The Constitution sets out how the Council operates, how decisions are made, and the procedures which are followed to ensure that these are efficient, <u>transparent</u> and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to determine  | Minor amendment to include that the constitution is adopted and amended by full Council.   | 1.1.1 The Constitution sets out how the Council operates, how decisions are made, and the procedures which are followed to ensure that these are efficient, <u>transparent</u> and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to determine. The Constitution is adopted, and amended, by the Full Council        |
|     | 1 – Introduction | 1.1.2    | No change proposed   |  |   |

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# Scheme of Delegation review

- The schemes of delegation evidence the unbroken golden thread from legislation to action
- Should distinguish between what is an executive function and what is a non-executive function
- Different rules apply to executive and non-executive functions – how they are publicised, recorded and scrutinised

# Scheme of Delegation principles

- Identify posts not individuals
- Make the delegations clear but as broad as possible
- Try and keep classifications of officers broadly consistent across the council
- Demonstrate the clear unbroken link from statute through the members to officers and down to junior officers for each function delegated

AutoSave Off Geoff Field - Combined Delegated Powers November 2023 Signed - Compatibility Mode Clare Pattinson CP

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## **DELEGATED POWERS** **SCHEDULE OF LEGISLATION**

Officers within the Public Protection Service, insofar as they hold any requisite competencies and qualifications are authorised as stipulated in the attached Appendix 1: Scheme of Delegation (and following any necessary consultation and/or approval) to act on behalf of the Council in respect of the legislation set out below and any subsidiary legislation made thereunder, including any subsequent legislation within the remit of this service.

| <u>Legislation</u>   | <u>Restriction</u>                        |
|--|---|
| Accommodation Agencies Act 1953  |   |
| Administration of Justice Act 1970   |   |
| Agriculture Act 1970   |   |
| Agriculture (Miscellaneous Provisions) Act 1968                                | Section 40                                |
| Air Quality (Domestic Solid Fuels <u>Standards</u> )(England) Regulations 2020 | Provisions relating to <u>fertilisers</u> |
| Animal Feed (Composition, Marketing and Use) (England) Regulations 2015        | and feeding stuffs (Section 67)           |
| Animal Feed (Hygiene Sampling etc and Enforcement) (England) Regulations 2015  |   |
| Animal By-Products (Enforcement) (England) Regulations 2011                    |   |
| Animal Health Act 1981   |   |

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**The following matters are delegated to the Director of Legal and Democratic Services:**

To act as Proper Officer for the purposes of the Local Government Acts 1972 and 2000 and all Regulations made there under other than those Proper Officer functions delegated to the Corporate Director of Resources in connection with the administration of the Council's financial affairs. This delegation shall not derogate from the general delegation under Table 1 paragraph 8.

15. To carry out the Proper Officer functions relating to the freedom of the City under the Durham City Council Act 1985.
16. To act as Proper Officer for the Registration of Births, Deaths and Marriages Service pursuant to Schedule 29 paragraph 41 of the Local Government Act 1972 including administration of the arrangements for the licensing of premises under the Marriage Act and the appointment of staff.
17. To approve premises for the solemnization of marriages and the registration of civil partnerships
18. To amend the Constitution where necessary to reflect changes in the law or decisions of council bodies or to correct inaccuracies.
19. To prepare, negotiate and agree all legal documentation in relation to all land and property in the Council's ownership or for the acquisition of land and property by the Council.
20. To prepare, negotiate and agree all legal documentation other than those contained in paragraph 19 relating to or affecting the functions of the Council.
21. To sign or attest the Council's seal in all legal documents referred to in paragraphs 19 and 20 and all other legal documentation intended to give effect to decisions of the Council.
22. To sign or attest the Council's seal to all documents referred to in paragraph 19.
23. To prepare, negotiate and agree all legal documentation in relation to all land and property held by the Council as a trustee.

**Constitutional Affairs**

| <b>Nature of Decision</b>   | <b>Officers</b>                | <b>Conditions</b>  |
|---|--------------------------------|--|
| To make in year changes to the membership of committees, and joint boards and committees and to make in year nominations or appointments to outside bodies. | Director of Law and Governance | In consultation with the Leaders of the political groups represented on the Council. |

North Northamptonshire Council Constitution – Part 9.2. – Officer Scheme of Delegation

| <b>Nature of Decision</b>   | <b>Officers</b>                | <b>Conditions</b>   |
|---|--------------------------------|---|
| To make minor administrative changes to the constitution to ensure legal compliance with changes in the law, changes to the Council's management structure or other changes with no significant impact. | Director of Law and Governance |   |
| Granting dispensations to councillors, co-opted members and church and parent school governor representatives from requirements relating to interests set out in the Member Code of Conduct.            | Director of Law and Governance | Shall be determined by the Democracy and Standards Committee unless considered urgent. An annual summary of the Monitoring Officers use of delegation shall be provided to the Democracy and Standards Committee. |
| Conducting investigations into allegations of breaches of the Code of Conduct by members and co-opted members.  | Director of Law and Governance | Following the Standards Sub Committee assessing the complaint and determining that an investigation should be conducted.  |
| Granting dispensations to members of decision-making bodies charged with making executive decisions in respect of any conflict of interest which the member declares.                                   | Director of Law and Governance | Shall be determined by the Democracy and Standards Committee unless considered urgent. An annual summary of the Monitoring Officers use of delegation shall be provided to the Democracy and Standards Committee. |

**Planning, Regulation, Licensing and Registration**

| <b>Nature of Decision</b>   | <b>Officers</b>   | <b>Conditions</b>  |
|---|---|--|
| All matters relating to Town & Country Planning functions as set out in the planning and related Acts, are delegated to the relevant senior planning officer to determine, other than the exceptions listed | Executive Director of Place and Economy<br><br>Delegation 1 | Delegated authority should not be exercised for applications, which in the opinion of the relevant senior planning officer should be referred to the relevant Planning Committee. This may be for reasons such as (but not exclusively):<br><br>(i) Applications where a national or local planning policy is being tested for the first time within the Council's area<br>(ii) Applications which have a finely |

*Officer Delegation Scheme (Council (non-executive) functions)*

**Director of Strategy & Resources**

1. Subject to the Exception listed below, the Director of Strategy & Resources<sup>1</sup> is authorised to discharge the following Council (non-executive) functions:

**Functions relating to Human Resources**

|     |   |  |
|-----|---|--|
| (a) | Functions relating to local government pensions, etc  | Regulations under section 7, 12 or 24 of the Superannuation Act 1972 |
| (b) | To make arrangements to consider and determine employee appeals in relation to grievances, grading and dismissal <sup>2</sup> | Section 112 Local Government Act 1972                                |
| (c) | To determine employee terms and conditions  | Section 112 Local Government Act 1972                                |

**Functions relating to standing orders**

|     |   |  |
|-----|---|--|
| (a) | To make standing orders in relation to Officer Employment | Section 106 of, and paragraph 42 of Schedule 12 to the Local Government Act 1972 |
| (b) | To make standing orders as to contracts                   | Section 135 of the Local Government Act 1972                                     |

**Regulatory functions**

|     |   |   |
|-----|---|---|
| (a) | To issue licences authorising the use of land as a caravan site ("site licences") | Section 3(3) of the Caravan Sites and Control of Development Act 1960 |
| (b) | To license the use of moveable dwellings and camping sites                        | Section 269(1) of the Public Health Act 1936                          |

| Article | Function Delegated  | Officer to whom delegated   | Terms and Conditions  |
|---------|---|---|---|
| 12.2    | To advise whether executive decisions are within the budget and policy framework  | Not delegated   |   |
| 12.2    | To contribute to the Corporate Management of the Council  | Not delegated   |   |
| 12.2    | To provide advice to Councillors  | <ul style="list-style-type: none"> <li>• Managers</li> <li>• Section Heads</li> <li>• Team Leaders</li> <li>• Procurement and Commercial Services Managers</li> <li>• Procurement and Commercial Services Solicitors</li> </ul> |   |
| 12.2    | To report to the Council as necessary on the staff, accommodation and resources she requires to discharge his/her statutory functions | Not delegated   |   |
| 12.2    | To receive copies of certificates under the Local Authorities (Contracts) Regulations 1997  | Not delegated   |   |
| 15.1    | To monitor and review the Constitution  | Legal Services Heads of Service   |   |
| 15.2    | To make changes to the Constitution   | Legal Services Heads of Service   | To make any changes to any Part of the Constitution which are required as a result of legislative change or decisions of the Council <sup>8</sup> or Executive <sup>9</sup> to enable him/her to maintain it up to date; or for the purposes of clarification only or where the Monitoring Officer is of the opinion such changes are de minimis and required for administrative or updating purposes only and for which there is unanimous agreement between the Leader <sup>11</sup> of each political group. |

<sup>8</sup> Including Council Committees and Officers acting under delegated authority.

<sup>9</sup> Including Committees of the Executive and Officers acting under delegated authority.

<sup>11</sup> Or in their absence, their deputy or Group Whip

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 Paragraph: Bullets, Numbering, Indentation, Paragraph Spacing, Styles (Caption, Heading 1-5)  
 Editing: Find, Replace, Select  
 Voice: Dictate  
 Sensitivity: Sensitivity  
 Editor: Editor  
 Add-ins: Add-ins

**Officer Delegation – Director Legal & Governance**

|  | Function  | Officer Level                    |   |   |   | Source of Delegation  |
|--|---|----------------------------------|---|---|---|---|
|  |   | 1                                | 2 | 3 | 4 |   |
|  | Delegated authority to <del>authorise</del> any variation from the agreed price of less than £150,000 if required in respect of the Disposal of the Council's freehold interest in land at <u>Beechwood</u> | Director of Legal and Governance |   |   |   | Council's Asset Disposal Policy<br><u>Executive</u> – 17 March 2020 |
|  | Ability to authorise Special Severance Payments of up to £20,000.   | Director of Legal and Governance |   |   |   | Sections 3 and 26 of the Local Government Act 1999.                 |



# How can you help?

- ✓ Speak to your group about the constitution and what you want to achieve by the review
- ✓ Encourage groups / individuals to send issues to me
- ✓ Be a constitution champion



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# How can you respond?

<https://forms.office.com/e/Kwtt9jquhW>

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# Timeline

December – February      Consultation with officers and members

March 2025                      Cabinet consideration

May 2025                         Council adopt revised constitution

