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Policy and Resources Committee Meeting

Date: Wednesday, 26 March 2025

Time 7.00 pm,

Venue: Committee Room, Swale House, East Street, Sittingbourne, ME10 3HT

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10. Constitution Update	3 - 12

The reports included in Part I of this agenda can be made available in alternative formats. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact democraticservices@swale.gov.uk. To find out more about the work of the Committee, please visit www.swale.gov.uk

**Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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Agenda Item

Policy and Resources Committee	
Meeting Date	26 March 2025
Report Title	Constitution amendment: Various
EMT Lead	Robin Harris – Monitoring Officer
Head of Service	
Lead Officer	
Classification	Open
Recommendations	<p>Policy and Resources Committee is asked to:</p> <p>1. Agree the amendments at Appendix I and recommend to council their incorporation into the constitution.</p>

1 Purpose of Report and Executive Summary

- 1.1 This report introduces a number of changes to the constitution to correct errors, provide clarity and generally improve the document. The report asks the Policy and Resources Committee to recommend the amendments to Council for adoption.

2 Background

- 2.1 Council voted unanimously in October 2021 to move to a committee system of governance from the 2022/23 municipal year. At the same meeting, council requested the cross-party working group (the Constitution Working Group or “CWG”) which had been established to consider this governance change to continue its work in overseeing the detail of the new constitution.
- 2.2 The CWG now meets on an ‘as needed’ basis to consider changes to the committees or the constitution of the Council.
- 2.3 The amendments proposed, as set out in Appendix I have been raised as issues because they are either in error, could have greater clarity, make decisions more robust and/or improve efficiency.

3 Proposals

- 3.1 The constitution working group reviewed the proposals in Appendix I and were satisfied that the amendments to the constitution should be made.
- 3.2 Appendix I details the proposals and the reasons for the proposal.

3.3 The Policy and Resources Committee is now **recommended** to agree the proposed amendments at Appendix I and recommend them to Council for adoption into the constitution.

4 Alternative Options Considered and Rejected

4.1 The Committee could not make the proposed amendments, but this is not recommended as improvements would not be made.

5 Consultation Undertaken or Proposed

5.1 The cross-party constitution working group has given consideration to the proposed amendments set out at Appendix I. Consultation has also taken place with the officers who are responsible for administering the work in the areas affected.

6 Implications

Issue	Implications
Corporate Plan	Adoption of improvements to the constitution and the removal of errors support the fourth corporate priority of renewing local democracy and making the council fit for the future.
Financial, Resource and Property	No direct implications identified at this stage.
Legal, Statutory and Procurement	The Council is required to have a constitution.
Crime and Disorder	No direct implications identified at this stage.
Environment and Climate/Ecological Emergency	
Health and Wellbeing	
Safeguarding of Children, Young People and Vulnerable Adults	
Risk Management and Health and Safety	
Equality and Diversity	
Privacy and Data Protection	

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Proposed amendments

8 Background Papers

8.1 There are no background papers.

Amendment 1

Relevant Extracts from the Current Scheme of Delegation (Left Column) Alongside Proposed Amendments (Middle Column) with Rationale (Right Column).

Proposed additions are shown in **red text**, and proposed deletions are ~~struck through~~.

Current Delegations to the Head of Regeneration and Economic Development	Proposed Delegations to the Head of Place	Rationale
<p>Cultural Services 2.8.19.1 To work in partnership to enable the delivery of arts, heritage and cultural services in Swale.</p> <p>2.8.19.2 To manage the preservation and development of cultural and heritage infrastructure.</p>	<p>Cultural Services 2.8.19.1 To work in partnership to enable the delivery of arts, heritage and cultural services in Swale.</p> <p>-</p> <p>2.8.19.2 To manage the preservation and development of cultural and heritage infrastructure</p>	<p>Proposed to be covered under 2.8.19.5 – for synthesis and to better reflect the balance of service priorities.</p>
<p>Economic Development and Regeneration 2.8.19.3 To implement key regeneration projects across the Borough.</p> <p>2.8.19.4 To enable synergy between the Council, leaning providers and local businesses.</p> <p>2.8.19.5 To enable the delivery of visitor economy projects across the Borough.</p>	<p>Economic Development and Regeneration 2.8.19.3 To implement key regeneration projects across the Borough.</p> <p>2.8.19.4 To enable synergy between the Council, leaning providers and local businesses.</p> <p>2.8.19.5 To work in partnership to promote and enable the delivery of learning and skills, economic development (including the visitor economy), arts, heritage, and culture-based visitor economy projects and services across the Borough.</p>	<p>Combined with 2.8.19.5</p> <p>Combining 2.8.19.1, 2.8.19.4 and 2.8.19.5 for synthesis and to better reflect the balance of service priorities.</p>

<p>2.8.19.6 To provide management and administration of grant schemes and payments, including the signing and sealing of grant agreements, in accordance with the Council's policy framework and/or the requirements of the funding body.</p>	<p>2.8.19.6 To engage with business and relevant representative organisations to promote and signpost services, and to further the economic development of the borough.</p> <p>2.8.19.7 To develop and submit bids for external funding for corporate and service priorities.</p> <p>2.8.19.6 To provide management and administration of grant schemes and payments, including the signing and sealing of grant agreements, in accordance with the Council's policy framework and/or the requirements of the funding body.</p>	<p>This addition will fill a gap where the Constitution is silent.</p> <p>This addition will fill a gap where the Constitution is silent. It is also requested to be recommended to CWG as an addition for all Heads of Service.</p>
<p>Property Services</p> <p>2.8.19.7 To enter into all 'de-minimis' agreements, e.g. minor wayleaves, easements, rights of way, temporary occupation of land, tenants-at-will etc.</p> <p>2.8.19.8 To negotiate and agree terms for the modification, variation or release of covenants contained in conveyances and transfers in accordance with any relevant provisions contained within the Asset Management Strategy, the Asset Transfer Policy and Disposals Policy.</p> <p>2.8.19.9 To deal with Blight Notices ensuring final compensation where the notices have been accepted by the Council for conveyancing purposes.</p>	<p>Property Services</p> <p>2.8.19.7 To enter into all 'de-minimis' Agreements, e.g. minor wayleaves, easements, rights of way, temporary occupation of land, tenants-at-will etc.</p> <p>2.8.19.8 To negotiate and agree terms for the modification, variation or release of covenants contained in conveyances and transfers in accordance with any relevant provisions contained within the Property Asset Management Strategy and Property Procedure Rules, the Community Asset Transfer Policy and Disposals Policy, and any other related or successor Strategies and Policies.</p> <p>2.8.19.9 To deal with Blight Notices (ensuring final compensation where the notices have been accepted by the Council for conveyancing</p>	<p>To update to current strategy / policy context, and to future proof.</p> <p>This addition will fill a gap where the Constitution is silent.</p>

<p>2.8.19.10 To approve disturbance payments, etc. other than payments in respect of well-maintained houses.</p> <p>2.8.19.11 To finalise negotiations in the case of confirmed Compulsory Purchase Orders.</p> <p>2.8.19.12 To deal with applications for the sale of sub-station sites.</p> <p>2.8.19.13 To deal with applications for the sale and purchase of land where the proposed consideration does not exceed £10,000 or where the land is to be sold or purchased on behalf of the Kent County Council.</p> <p>2.8.19.14 To assign leases, subject to the normal investigation of the financial abilities of the new leases and to those cases also requiring a change of the approved use being determined, in consultation with the relevant Committee Chair.</p>	<p>purposes), encroachments and adverse possession claims.</p> <p>2.8.19.10 To approve disturbance payments, etc. other than payments in respect of well-maintained houses.</p> <p>2.8.19.11 To enter in to and finalise negotiations in the case of confirmed Compulsory Purchase Orders.</p> <p>2.8.19.12 To deal with applications for the sale of sub-station sites.</p> <p>2.8.19.13 Following engagement with ward members, to deal with applications for the sale and purchase the freehold disposal and purchase of land where the proposed consideration does not exceed £10,000 £100,000 or where the land is to be sold or purchased on behalf of the Kent County Council. In all matters relating to the disposal of land and property, delegations are subject to the duty under S123 of the Local Government Act 1972 to obtain the best consideration for the land, and any other disposal will require a Committee decision.</p> <p>2.8.19.14 To assign leases, subject to the normal investigation of the financial abilities of the new leases lessees and change of use consents to those cases also requiring a change of the approved use being determined, in consultation with the relevant Committee Chair.</p>	<p>For clarity and completeness.</p> <p>To tighten wording, and to bring the value up to date, optimising use of Committee time, whilst proposing a threshold appropriate for member engagement. (This value matches the key decision threshold).</p> <p>To tighten wording, and for parity with all other delegations, none of which require consultation.</p>
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<p>2.8.19.15 To terminate or accept the surrender of a leasehold interest in land where it is of benefit to the Council.</p> <p>2.8.19.16 To approve rent reviews and lease renewals up to a maximum increase of £7,000 or 20% per annum whichever is the greater amount.</p> <p>2.8.19.17 To enter into leases for less than seven years or to enter into leases where the annual rent is less than £3,000.</p> <p>2.8.19.18 To retain agents to advise upon terms for sales, leases, purchases, easements, compensation claims and similar matters or otherwise in connection therewith.</p>	<p>2.8.19.15 To terminate or accept the surrender of a leasehold interest in land where it is of benefit to the Council.</p> <p>2.8.19.16 To approve rent reviews and lease renewals up to a maximum increase of £7,000 or 20% per annum whichever is the greater amount.</p> <p>2.8.19.17 To enter into leases for less than seven years to which statutory security of tenure does not apply or to enter into leases where the annual rent is less than £3,000, £30,000.</p> <p>2.8.19.18 To grant rent concessions in line with Council Policy.</p> <p>2.8.19.18 To appoint and retain agents to advise upon terms for sales, leases, purchases, easements, compensation claims and similar matters or otherwise in connection therewith.</p>	<p>As rent reviews are dictated by market circumstance, and officers should be securing the appropriate value.</p> <p>To tighten wording, and to bring the value up to date, optimising use of Committee time, whilst proposing a threshold appropriate for member engagement.</p> <p>To fill a gap where the Constitution is silent.</p> <p>For clarity and completeness.</p>
<p>2.8.19.19 To negotiate the terms of, and authorise the granting of, landlords licences and consents and variations under existing leases.</p> <p>2.8.19.20 To carry out any site investigation where he/she considers it necessary whether</p>	<p>2.8.19.19 To negotiate the terms of, and authorise the granting of, landlords' licences and consents and variations under existing leases.</p> <p>2.8.19.20 To administer all aspects of short-term tenancies of Swale House.</p> <p>2.8.19.20 To carry out any site investigation which he/she considers it necessary for the operation of the service whether upon the</p>	<p>To fill a gap where the Constitution is silent.</p> <p>To tighten wording.</p>

<p>upon the commencement of negotiations or acquisition or otherwise.</p> <p>2.8.19.21 To apply for planning permission for the development of any land or property and to make any other application under planning legislation.</p> <p>2.8.19.22 To be responsible for all aspects of the Community Right to Bid process as per the Localism Act 2011.</p>	<p>commencement of negotiations or acquisition or otherwise.</p> <p>2.8.19.21 To apply for planning permission for the development of any land or property and to make any other application under planning legislation.</p> <p>2.8.19.22 To be responsible for all aspects of the Community Right to Bid / Assets of Community Value process as per legislation and including engagement with ward members. the Localism Act 2011</p>	<p>Proposed for deletion from the Head of Service delegations as due to the combination of functions, this would mean the Head of Service applying to themself.</p> <p>Proposed to be a new delegation for the Strategic Programme and Assets Manager.</p> <p>For clarity and to tighten wording.</p>
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Amendment 2

Proposed Change to the Constitution

Title: *(Short title for ease of reference)*

Leaders statement

Relevant section of the Constitution (including page/paragraph number):

3.1.18

Description of proposed change:

(Please show the tracked changes here or attached as a separate word document)

Given the number of groups etc. the timing of the leader's statement needs to be changed.

Proposal from Cllr Baldock/Cllr Bowen:

Leader 5 mins

Opposition Group Leaders 3 mins

Ordinary members 2 mins

Leader's reply 3 mins

Reason, including referenced documents/acts, for proposed change:

To facilitate full council meetings.

Timescale:

By new civic year.

Proposer:

Name:	Lloyd Bowen
Title:	Group Leader
Date:	06/03/25

Approval *(to be completed by the Monitoring Officer)*

***Changes approved by the Monitoring Officer under delegated authority**
***Proposed major changes to be submitted to Constitution Working Group**
*(*delete as appropriate)*

Signature of Monitoring Officer:

Date:

Amendment No:

Date incorporated:

Amendment 3

P&R Committee request (Actioned, but referred back to CWG.)

At the July meeting of the P&R Committee the following point was raised in discussion:

- the Constitution Working Group should consider whether it was necessary that items for noting were considered by the relevant committee or just circulated for information; and...

This arises from the commentary in the peer review that too many matters / reports go to committees for noting.

There is no relevant provision in the Constitution for the noting of reports or the treatment of the same. This appears to have arisen as a matter of practice.

It is therefore proposed to insert into the constitution after:

2.3 Service Committees

2.3.1.2 All of the service committees shall exercise the following functions within their areas of responsibility:

... vi. to appoint and oversee the work of any subcommittees.

Proposal:

vii. To note reports presented to the committee. Items for noting will be tabled at the beginning of the agenda. The Chairman will list the items for noting and any member may request that an item is discussed.

(Also add 'Request an item for noting is discussed' to the list of motions without notice.)

Reason: To respond to commentary in the peer review and provide a pragmatic and flexible approach to the dissemination of information to members.