

Standards Committee



2 December 2024

Title	Amendments to the Constitution
Purpose of the report	To make a recommendation
Report Author	Karen Limmer, Interim Monitoring Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	Not applicable
Corporate Priority	This item is not in the current list of Corporate Priorities but still requires a Council decision.
Recommendations	Committee is asked to recommend Council to: Approve the proposed changes to the Constitution as set out in Appendix 1.
Reason for Recommendation	To ensure that the Constitution is an effective and up to date document and to support good governance.

1. Summary of the report

What is the situation	Why we want to do something
<ul style="list-style-type: none">Officers have identified some changes to the Constitution to provide clarity on decision-making and reflect current legislation.	<ul style="list-style-type: none">To ensure the Constitution facilitates efficient and effective decision-making, thereby supporting good governance.
This is what we want to do about it	These are the next steps
<ul style="list-style-type: none">Recommend the changes as set out in Appendix 1 for approval.	<ul style="list-style-type: none">Seek Council approval for the proposals.Once approved, the Constitution will be updated and published on the website.

1.1 This report seeks a recommendation to Council to approve proposed amendments to the Constitution, which have the support of the Committee System Working Group.

2. Key issues

2.1 The Committee System Working Group (CSWG) is responsible for considering whether any amendments are required to the Constitution and making recommendations on these to the Standards Committee.

- 2.2 Officers have identified amendments which are required to clarify responsibilities for decision-making and reflect new legislation.
- 2.3 The proposed amendments relate to:
- the terms of reference of Committees (Part 3b of the Constitution),
 - the Scheme of Officer Delegation (Part 3d) and
 - Contract Standing Orders (Part 4e)
- 2.1 Terms of reference of Committees – The Corporate Policy and Resources Committee has responsibility for Corporate Complaints and receives the annual performance report on complaints. The Community Wellbeing Committee was recently appointed ‘Member Responsible for Complaints’. This appointment arose from a recommendation to CPRC on 9 September 2024 in a report on Housing Complaints Performance and the Housing Ombudsman’s Complaint Handling Code.
- 2.2 The report stated:
- “The Complaint Handling Code requires one member (or committee) of the governing body to have lead responsibility for complaints. This role is responsible for ensuring the governing body receives regular information on complaints that provides insight and learning on the Council’s complaint handling performance.*
- The Member Responsible for Complaints (MRC) will be responsible for ensuring that future annual self-assessments of compliance with both Ombudsmen’s Codes, (Housing Ombudsman and Local Government and Social Care Ombudsman [LGSCO]) are scrutinised and challenged. This forms part of their role in embedding a positive complaint handling culture across the organisation.*
- The LGSCO Code also advises the appointment of an MRC with an equivalent role, (to that of the MRC under the Housing Ombudsman’s Code) although the LGSCO is yet to provide a detailed suggested role profile. Complaints falling within the jurisdiction of the LGSCO relate to every service of the Council with the exception of social housing. These complaints far outweigh the number of complaints handled by MTVH (the Housing Company appointed by the Council to manage its social housing i.e. Harper House and White House) in the last year about social housing.*
- ... it is proposed to appoint one MRC to cover both Ombudsmen’s jurisdictions.”*
- 2.3 Although appointment of the Community Wellbeing and Housing Committee as MRC for social housing complaints is appropriate, the requirement is to appoint one MRC to scrutinise all complaints relating to any service of the Council. In 2023-24 we received just 2 complaints about social housing and 42 about other services.
- 2.4 It is proposed to amend the terms of reference to delegate Corporate Policy and Resources Committee as the “Member responsible for Complaints” to avoid possible duplication of scrutiny and reporting on complaint performance.

- 2.5 Scheme of Delegation – to accord with the Statutory Guidance issued by the Government which relates to Special Severance Payments, it is proposed to delegate to the Head of Paid Service in consultation with the Leader to sign off severance payments of £20,000 to £100,000 and to delegate to the Chief Finance Officer to sign off severance payments below £20,000. These relate to payments which may be considered on termination of employment following previous government proposals to limit exit payments in the public sector, which were then rescinded.
- 2.6 Contract Standing Orders – a new public procurement regime has been created by the Procurement Act 2023. It is necessary therefore to update Contract Standing Orders to reflect this new piece of legislation.
- 2.7 The proposed changes to the Constitution were discussed with the Committee System Working Group on 20 November 2024. The Working Group suggested a minor amendment to the Contract Standing Orders to require advertising of contracts over £30,000 instead of £25,000.

3. Constitutional amendments

- 3.1 Attached at **Appendix 1** is a summary of all the amendments which are recommended for approval. The amendments relate to a number of the Parts which make up the Constitution. Clean copies of these amended Parts are attached as appendices. Tracked change versions of these documents are available to councillors in the Mod.Gov app library.

4. Legal comments

- 4.1 It is considered that the proposals in the Appendix to this report will meet one of the purposes of the Constitution as set out in Article 1:
- (a) to enable decisions to be taken efficiently and effectively;
- 4.2 The new public procurement regime created by the Procurement Act 2023 (the Act) was due to start on 28 October 2024. On 12 September 2024, government announced that the Procurement Act 2023 will now commence on 24 February 2025 - a delay of four months, to allow time for a new National Procurement Policy Statement (NPPS) to be produced.

5. Risk considerations

- 5.1 If the Constitution is not updated to reflect current legislation, the Council exposes itself to the risk of legal challenge. If we fail to comply with the Procurement Act 2023, there is a risk that contracts may be invalid.
- 5.2 If the responsibility for complaints is not clarified in the terms of reference for Committees, there is a risk of confusion as to the correct reporting body and the possibility of duplication of work with the consequent impact that has on resources.

6. Timetable for implementation

- 6.1 A recommendation from Standards Committee will be considered by Council at its meeting on 12 December 2024.
- 6.2 The amendments will take effect upon agreement by Council and the Constitution will be updated and published as soon as reasonably practicable.

7. Contact

7.1 Gill Scott, Corporate Governance Support Officer (g.scott@spelthorne.gov.uk)

Please submit any material questions to the Mayor and Officer Contact by two days in advance of the meeting.

Background papers: There are none.

Appendices:

Appendix 1 – Summary of proposed Constitution amendments

Followed by:

Part 3(b) Terms of Reference

Part 3(d) Delegations to Officers

Part 4(e) Contract Standing Orders