

NORTH NORTHAMPTONSHIRE SHADOW AUTHORITY

SHADOW AUTHORITY MEETING

Thursday 25 February 2021

Report Title	Adoption of the North Northamptonshire Council Constitution
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List of Appendices

(i) North Northamptonshire Constitution

1. Purpose of Report

1.1 North Northamptonshire Council is required to have a Constitution. This report informs members of the process undertaken in creating a new Constitution, key principles of it which reflect the culture of the new Council and seeks approval to adopt the Constitution

2. Recommendations

2.1 That the Shadow Authority;

(1) Approve the Constitution attached at Appendix A

(2) Establish a Constitutional Working Group consisting of 5 members (politically balanced) drawn from members of the Democracy and Standards Committee who shall determine the Terms of Reference and appointments.

(2) Delegate authority to the Monitoring Officer to make minor and/or consequential amendments to the Constitution

3. Report Background

3.1 The Council is required by Section 9P of the Local Government Act 2000 to have a Constitution. From 1st April 2021, the new North Northamptonshire Council's Constitution will need to come into effect.

3.2 North Northamptonshire Council wants to embrace the opportunity for positive change for the benefit of its residents. The new council is an ambitious council that is focussing on transformation and innovation. Local government reorganisation provides the chance for more efficient service delivery that improves outcomes and increases value for money. It is important that the Constitution provides the framework for delivering on such ambitions.

3.3 A Constitution should primarily be a locally driven document which reflects the character and culture of the organisation. As North Northamptonshire Councils

identity and culture evolves it will be important for it to be regularly reviewed; the commitment to reflection and continual improvement is reflected in the recommendation to establish a Constitutional Working Group.

- 3.4 The council will be keen to create essential member led governance structures within the new council to support the councils transformation agenda and corporate priorities, In addition, the new council will need to review its community based governance including local boards and forums. Although the Constitution currently focusses on decision making bodies only, members may wish that these be included within the Constitution once they are established.
- 3.5 Although the five local authorities within North Northamptonshire all have their own Constitutions and these have provided useful background to current decision making arrangements, the establishment of the new council provides the opportunity to set out new ways of operating, to encourage public involvement in the democratic process, to help inform and engage and avoid barriers to wider public involvement. A full rewrite was therefore completed.
- 3.6 To take forward the drafting of the Constitution a Member Task and Finish Group was set up, chaired by Councillor Tom Beattie, vice-chaired by Councillor Helen Howell, and with Councillors Scott Edwards, David Howe, and Michael Tye also members of the group. The composition of the group was cross party and consisted of representation from across the sovereign councils.
- 3.7 From June 2020 until February 2021, the Task and Finish Group has met regularly to consider the various sections of the new Constitution. The group provided a steer on the principles, framework and key provisions. In the months preceding the completion of the Constitution, they met weekly due to the workload. The Constitution evidences the positive outcome that can be achieved by members and officers combining their knowledge and experience.
- 3.8 The Constitution refers to the importance of engagement and communication between members and officers throughout and it was therefore important that this started from the outset. Three briefings were provided to all members who wished to attend and the Shadow Executive were also regularly informed of progress. Members have been given the opportunity to comment on documents and the governance structure and their comments have enabled important changes to be made to ensure that the Constitution proposed reflects their views.
- 3.9 **Governance Arrangements**
- 3.10 The sovereign Councils operate both Committee and Executive governance arrangements. The new Council provides an exciting opportunity to develop a hybrid model of governance within the parameters of the existing legislation. The hybrid model is based upon the creation of Executive Advisory Panels which are essential to open, inclusive and transparent decision making. The hybrid model draws on the benefits of both systems of governance.
- 3.11 The new model will ensure that all members skills and knowledge are utilised in policy development, shaping major decisions and that they are able to make a significant contribution to effective decision making.

3.12 The Corporate Leadership Teams role and relationship with the Executive members and Executive Advisory Panels will be pivotal to the success of the proposed governance arrangements. The creation of the Panels will result in closer working between elected members and senior officers which links to the desire for strong relationships between members and officers to ensure a successful council.

3.13 It is recognised that a strong scrutiny function is integral to effective governance and this is explained in further detail later in this report.

3.14 **Principles**

3.15 The Task and Finish Group agreed the following Principles, which have enabled members and officers to work together collaboratively to shape and frame a new constitution:

- Transparency – makes it clear what our rules are
- Accountability – explains clearly who makes which decisions
- Accessibility- needs to be fit for purpose and understandable
- Plain English- keep the language as simple as possible
- Localism- local members are involved in decisions which affect their local area.

3.16 The Task and Finish Group were supportive of a document that was easy to read and accessible and to help with navigating the document requested that text boxes were included at the top of every document to provide a brief summary of the document and its purpose. In addition they were supportive of moving away from the traditional Model Constitution which was introduced by the DETR in 2000 and instead structure the constitution in a way that was more user friendly and would enable the user to look at one section and limit having to cross reference.

3.17 Whilst the Constitution is attached in its entirety at Appendix A, the following seeks to explain to key parts of the Constitution, their purpose and explains the rationale behind them.

3.18 **Part One- Introduction and Summary**

This section contains an overview of the Council and how it makes decisions. It is directed towards the public as it sets out how the Council operates. It also sets out the Key Decision definition which was agreed by the Task and Finish Group following benchmarking of similar authorities based upon both size and budget.

3.19 **Part Two- Public Participation and Rights**

This section includes a broad description of the rights of citizens and the Petition Scheme. It also sets out the rules in relation to how the public and members can access information. Public participation was important to all members who provided comments.

3.20 **Part Three- Council**

This section sets out the functions of Council, the overall budget and policy framework and how the Full Council makes decisions. The Meeting Procedure Rules set out how the Council will operate, the Task and Finish Group went through this document in detail and other members have made suggested improvements which have been welcomed and have resulted in positive changes.

3.21 **Part Four- Executive**

The Executive Procedure Rules set out how the Executive will operate. The Executive may have 9 members plus the Leader and there will be portfolios which can be established at the discretion of the Leader.

It is proposed that there are 5 Executive Advisory Panels and these are the key to the hybrid model of governance. They are cross party and chaired by the relevant Portfolio Holder. Meetings will be publicly accessible in line with the principle of transparency and openness that the Council wants to promote through the Constitution. The Panels purposely do not align to services, portfolios (these will not be established by the Leader until after the election in any event) or functions and promote a holistic approach to policy development through focussing on outcomes for residents of North Northamptonshire.

3.22 **Committees**

Detailed consultation has taken place to draw up a draft committee structure which will form the basis of the delegation of functions to committees within the Constitution. The committee structure is based upon statutory requirements, benchmarking and implementing the principles agreed with the Task and Finish Group.

Terms of Reference were prepared for the Member Task and Finish Group with specific recommendations which have been agreed by Members. In addition, comments have been received from the wider membership and where possible have been included within the Terms of Reference.

The size of Committees was agreed by the Task and Finish Group following benchmarking with other Authorities and considering the size of the new council. It was agreed that all Committees would be able to have substitute members but that these should be named. All members of Committees should have relevant training to be able to make informed decisions. Quorum was determined as one quarter of the membership for Council and all Committees apart from Area Planning Committees which differ. this is rounded up so for a Committee of 13, the quorum is 4).

The Task and Finish Group were keen to include co-opted members onto Audit and Governance Committee in accordance with best practice. Following feedback from the wider membership there is the option to appoint an independent Chairman to the Audit and Governance Committee should members wish to do so at Annual Council.

3.23 **Planning Committees**

Detailed work and benchmarking was carried out by the Planning work stream and the Task and Finish Group. In addition a dedicated briefing was available for all members to attend.

Although it was initially proposed to have two area Committees and a Strategic Committee, members were keen to reflect the importance of localism and therefore four Area Planning Committees have been proposed in line with current sovereign council boundaries. Due to the amount of members within the boundaries that will be elected in May, the size of each Committee has been proposed as 9 with a quorum of 5. There will also be named substitutes.

A Strategic Planning Committee has also been established for strategic planning matters.

In relation to Planning Policy, an Executive Advisory Panel will be established to allow cross party involvement in planning policy.

3.24 **Scrutiny**

The importance of scrutiny has been a key theme in developing the Constitution. It is recognised that a strong Scrutiny function that can influence and challenge is vital to effective decision making.

Under section 21 of the Local Government Act 2000, the Council must have at least one Scrutiny Committee. The Centre for Public Scrutiny “Good Scrutiny Guide” states that “Scrutiny’s structures are often a reflection of the culture in which scrutiny operates and the role that has been agreed for it”. As a council which wants to use the opportunity to be innovative and transformational it is important that the scrutiny function is agile and able to respond to the fast paced environment the council seeks to promote.

The scrutiny workplan will be an essential tool in delivering this approach. The workplan is a living document and will be reviewed at each meeting. It is informed by matters of concern raised by the public/members/stakeholder, the Corporate Plan, the strategic risk register, performance data, the Forward Plan and published decisions. The workplan should be a reflection of those matters that are at the top of the agenda for the authority, the public and stakeholders.

If an item is added to the workplan then a Task and Finish Group would be created to scrutinise and provide in depth review. This will allow scrutiny to have real impact on the organisation, react quickly and fulfil its statutory functions in relation to crime and disorder, health and education in a way that multiple Committees would not.

Whilst this modern and agile approach to Scrutiny was welcomed by the Group, following feedback from other members, they proposed that an additional Scrutiny Committee be established called the “Scrutiny Committee-Finance and Resources”. This Committee will not change the progressive way that the Scrutiny Committee (called the “Scrutiny Commission”) will work but

will provide a standing Committee to focus primarily on the budget which is particularly important as the new council is established. It is important that all finance matters are referred to this Committee to avoid duplication.

Both Committees will be able call in those decisions that have been included on the Forward Plan in relation to their respective terms of reference however the inclusion of Executive Advisory Panels which provide important overview work for policy and development and important decisions are likely to reduce the amount of call ins.

3.25 Joint Arrangements

This section details the joint arrangements between the Council and other bodies. It also sets out any joint arrangements with the Children's Trust.

The Council will establish a North and West Joint Committee will deal with shared service arrangements between the Councils and another Joint Committee to oversee the Councils arrangements with regard to the Children's Trust. The Joint Committee will be a meeting of the Executive and will be subject to agreed joint Executive Procedure Rules between the two Councils. Decisions of the Joint Committee will be subject to the requirements in relation to the publication of 28 day notices through a Forward Plan. The Scrutiny arrangements of the Council will apply to decisions of the Joint Committees.

The terms of reference for the shared services committee are included within the Constitution but the terms of reference for the Children's Trust will be considered by Executive in March 2021.

Police, Fire and Crime Panel

Separate work has been undertaken to identify the changes needed to the membership of statutory bodies in which the existing councils have duplicated membership. The Police, Fire and Crime Panel will need to decide those new arrangements and that decision has been referred to their meeting.

3.26 Councillors

This section includes the Members Allowance Scheme which is subject to a separate report. If approved by members the scheme will be incorporated into the Constitution.

It is proposed that the Council adopt the LGA Members' Code of Conduct. The Local Government Association developed the Model Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of ethical standards, leadership and performance. It is proposed to invite Town and Parish Councils to adopt the new Code too to ensure that a consistent approach is adopted throughout North Northamptonshire. Arrangements for dealing with Complaints Procedure is also included in this section.

Details of the proposed Member/Officer Protocol have been discussed with the Member Task and Finish Group and reflect the desire for strong relationships between members and officers. This is an important document which sets the culture of the organisation.

3.20 Officers

A detailed list of proper officer functions has been drawn up and is included. When an officer is appointed as a Proper Officer, e.g. the Head of Paid Service, this has the effect of legislation providing powers directly to an officer role and these powers cannot be exercised by any other decision maker other than a properly appointed deputy.

The Officer Delegation Scheme sets out principles for how officers should take decisions. The key principle that they will ensure that consult and engage members as appropriate and that they must comply with governance processes and procedures. The Scheme should support members and officers to deliver in their respective roles.

Traditionally, authorities have drafted delegations as lists of individual powers to officers. This has resulted in a high risk that a power may be missed and decisions would be more likely to be challenged. Recognising this risk, many authorities have adopted the approach of reversing the scheme so that officers are delegated catch all powers within a certain functional area and reserved matters to Members are clearly set out. This provides greater clarity about matters which are reserved to Members whilst reducing the risk that the scheme becomes out of date or misses a relevant power. It also avoids the need to amend the scheme with each change of legislation. Where members have reserved power to make decisions, it is listed on the right hand side of the table.

3.21 Interim Arrangements

Between 1 April, when the Constitution comes into effect, and the fourth day after the election (the date specified in the Order) the Shadow Period continues and the Shadow Executive will continue to be responsible for the majority of decisions. During this period a streamlined committee structure will be in place. This is set out in the Interim Arrangements section of the Constitution. This will fall away after the election and will be removed from the Constitution and the substantive Committee Structure will then be in place and appointed to at the Annual General Meeting.

4. Implications (including financial implications)

4.1 Resources and Financial

The publication of the Constitution is proposed to have limited cost as it will be published digitally. However, the Council is required to provide a hard copy at

a fee if requested to do so. The initial digital preparation may also require some design/development.

It is suggested that some limited documentation will need to be prepared to enable new members and the public to have a broad outline of the new arrangements.

The Constitution is being drafted by existing staff employed by the authorities and there are no additional costs.

4.2 Legal

4.2.1 This report relates to the high level legal requirements and the legal implications are detailed within the body of the report.

4.3 Risk

4.4 The Council is required to have a Constitution in place. If a Constitution is not approved prior to the 1st April then the Council will not be acting in accordance with legislation.

4.5 Consultation

4.4.1 The report and Constitution describe the future governance arrangements for the Council and are not subject to public consultation.

4.4.2 All members were provided the opportunity to attend briefings on the constitution and provide comments to the Monitoring Officer and Task and Finish Group.

4.6 Climate Impact

4.6.1 There are no specific climate impacts resulting from this report. The principles of the Constitution as drafted include efficiency and accountability. This is designed to ensure that meetings to determine a decision are kept to a single decision making body which reduces the need for meetings and, where applicable, documentation.

4.7 Community Impact

4.7.1 The draft Constitution introduces a new section dedicated to public participation in decision making. This is designed to encourage and support community involvement in decision making to help to ensure that future impacts are understood as part of the decision making process.

Existing Community Boards will continue to be supported until new arrangements can be put in place. The new Council will conduct a review of the needs of community based governance including local boards and forums. It is intended that this work will include public and stakeholder engagement.

4.8 Equality and Health

4.8.1 Under the general equality duty as set out in the Equality Act 2010, local authorities are required to have due regard to the need to eliminate unlawful

discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not. It is important to ensure that the Constitution does not discriminate unlawfully against any particular group of people.

5. Background Papers

5.1 None.