

Committee: Full Council

Date: Tuesday,

Title: Proposed Amendments to the
Uttlesford District Council Constitution

6 December 2022

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Summary

1. Three reports recommending a suite of constitutional amendments were taken to the last GAP Committee on the 29th of September 2022 as follows:
 - 1.1 Regulation of Investigatory Powers
 - 1.2 Scheme of Delegation
 - 1.3 A report dealing with general amendments some of which were informed by good practice, and some required by legalisation and to provide clarity
2. The contents of the Reports at 1.1 and 1.2 were adopted at the last Council meeting on the 11 October 2022.
3. The report at paragraph 1.3 referred to the following areas where amendment was recommended:
 - 2.1 The provisions in the Council Procedure Rules relating to abridgment of time for calling extraordinary meetings
 - 2.2 The Officer Employment Rules (relating to Statutory Officer Disciplinary and Dismissal Procedures)
 - 2.3 Councillor role descriptions
 - 2.4 The functions and terms of reference of the Governance, Audit and Performance Committee, and the Standards Committee
 - 2.5 The provisions in the Council Procedure Rules relating to motions.
4. On consideration of the report at 1.3 members requested that the report be deferred in order to look in more depth at the proposed changes. Not all changes were essential (those at 2.3, 2.4 and 2.5) and members requested further consideration by Committee and, or, that members were consulted more widely if the changes affected their member or Committee roles.

- Members were advised that amendments proposed at 2.1 and 2.2 above were essential amendments.

Recommendations

- That the Committee note this update to the report at paragraph 1.3 and the amendments made by the Monitoring Officer under delegated powers which will be made to the Constitution as outlined in appendix one below.
- That the Committee note the amendments shown in paragraph 13 made by the Monitoring Officer under delegated powers which will be made to the Constitution as outlined in appendix two below.

Financial Implications

- There are no financial implications deriving from this report.

Background Papers

- GAP Committee Report and Minutes 29th September 2022.

Impact

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Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	N/A
Ward-specific impacts	None
Workforce/Workplace	None

Situation

- Since the GAP Committee of the 29 September 2022 some consultation has taken place as members requested regarding 2.3, 2.4 and 2.5 above. In addition, since that time, more good practice guidance has emerged in a number of areas. Having considered the feedback and the emerging practice guidance it would be more efficient to separate these non-essential issues out from those that require

immediate change and consider this piece of work post elections when the Council may well have some new members and will form new Committees.

12. The Monitoring Officer proposes to report on these issues again post elections and has under delegated authority in the meantime made the required essential but minor amendments to the Constitution found at appendix 1 of this report.
13. In addition as part of our ongoing review of the Constitution and not reported on at the last GAP Committee, Section 19 of the Police and Justice Act 2006 requires the Council to have a Crime and Disorder Committee with the power to review or scrutinise decisions made, or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions. This duty will be undertaken by the Scrutiny Committee. To achieve this amendments were needed to the Constitution to regularise this. The Chair of Scrutiny has been consulted and the Monitoring Officer under delegated authority has made the amendments shown at appendix 2 of this report.
14. This report is to be considered at the GAP Committee on 30 November 2022.

Risk Analysis

14. The proposed amendments to the Constitution create little risk to the Council.

Risk	Likelihood	Impact	Mitigating actions
1	1	1	Changes made mitigate any risk.

- 1 = Little or no risk or impact.
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required.
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Please note text highlighted in yellow indicates where text has been added.

Appendix 1

PART 4 – RULES OF PROCEDURE

RULE 3 EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings.

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

- 3.1.1 the Council by resolution;

- 3.1.2 the Chair of the Council;
- 3.1.3 the Monitoring Officer,
- 3.1.4 the Section 151 Officer; and
- 3.1.5 any five members of the Council if they have signed a requisition presented to the Chair of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2 **Business**

The summons to the extraordinary meeting shall set out the business to be considered. No business other than that set out in the summons shall be considered at that meeting.

RULE 4 TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Chief Executive and notified in summons.

RULE 5 NOTICE OF AND SUMMONS TO MEETINGS

- 5.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Chief Executive will send a summons signed by him or her by post or by e-mail to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

5.2 **Meetings convened at short notice**

Meeting of the Council may only be convened at less than five clear working days' notice whereby reason of special circumstances which shall be specified in the summons, the meeting is required to be called at that time as a matter of urgency.

PART 4 – ACCESS TO INFORMATION RULES

RULE 5 NOTICES OF MEETING

Unless Rule 5.2 of the Council Procedure Rules applies, the Council will give at least five clear working days' notice of any meeting by posting details of the meeting at the Council Offices,

London Road, Saffron Walden, Essex CB11 4ER (“the designated office”) or publishing on the council website.

RULE 6 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

Unless Rule 5.2 of the Council Procedure Rules applies, the Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Chief Executive shall make each such report available to the public as soon as the report is completed and sent to councillors. In the event of Rule 5.2 being applied, the agenda and reports shall be published as soon as possible.

Part 4 Section 2, of the Constitution: Officer Employment Rules

8. Disciplinary procedure for relevant officers

8.1 The provisions of this rule are applicable to the dismissal of, and the taking of any disciplinary action against, (a) the Council’s head of paid service, (b) its chief finance officer and (c) its monitoring officer (defined for the purposes of these provisions in rule 8.2(b) below). The provisions of this rule should be read in conjunction with the relevant provisions of the Council’s Disciplinary Policy, in which the additional procedural steps that will be followed are set out.

8.2 In the following paragraphs

- (a) “the 2011 Act” means the Localism Act 2011(b);
- (b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
- (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
- (d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
- (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for

the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;

- (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
- (g) “relevant officer” means the chief finance officer, head of the authority's paid service or monitoring officer, as the case may be.

8.3 A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.

8.4 The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

8.5 In paragraph 8.4 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

8.6 Subject to paragraph 8.7, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 8.4 in accordance with the following priority order-

- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
- (b) any other relevant independent person who has been appointed by the authority;
- (c) a relevant independent person who has been appointed by another authority or authorities

8.7 An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 8.6 but may do so.

8.8 The authority must appoint any Panel at least 20 working days before the relevant meeting.

8.9 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—

- any advice, views or recommendations of the Panel;
- the conclusions of any investigation into the proposed dismissal; and
- any representations from the relevant officer.

8.10 Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

Appendix 2

Article 6 - Scrutiny Committee

6.3 Specific Functions - Scrutiny Committee

- 6.3.1 conduct research, community and other consultation in the analysis of policy issues and possible options;
- 6.3.2 consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- 6.3.3 question members of committees and chief officers about their views on issues and proposals affecting the district;
- 6.3.4 liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- 6.3.5 assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- 6.3.6 review and scrutinise the decisions made by and performance of the executive, committees and council officers both in relation to individual decisions and in more general terms;
- 6.3.7 carry out the functions assigned to a Crime and Disorder Scrutiny Committee pursuant to Section 19 of the Police and Justice Act 2006;
- 6.3.8 review and scrutinise the performance of the Council in

relation to its policy objectives, performance targets and/or particular service areas;

- 6.3.9 question members of the executive, committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- 6.3.10 make recommendations to the executive, committees and/or Council arising from the outcome of the scrutiny process;
- 6.3.11 review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance;
- 6.3.12 question and gather evidence from any person (with their consent); and
- 6.3.13 exercise the right to call-in for reconsideration of decisions made but not yet implemented by the executive or committees