

Committee Ref:

REF: CON/04/21

**Luton**

# Notice of Meeting

## Constitution Committee

Date : Tuesday, 20 April 2021

Time : 18:00

Place : Virtual meeting via\*Skype

Councillors : A. Hussain (Chair) Moles  
Masood (Vice-Chair) S.Saleem  
Abid Skepelhorn  
Franks Timoney  
M. Hussain Young  
Javed

Quorum: 3 Members

**Contact Officer:** Debbie Janes (01582 546038)

Email [Debbie.janes@luton.gov.uk](mailto:Debbie.janes@luton.gov.uk)

[Skype Meeting Link](#)

### PURPOSE

To consider and make recommendations to the Full Council in respect of proposed amendments to the Constitution and all incidental matters.

**\*SKYPE:** During the Covid 19 emergency period, this meeting will take place virtually, via Skype. To access the meeting, please click on the link to the meeting above.

# AGENDA

<i>Agenda Item</i>	<i>Subject</i>	<i>Page No.</i>
1.	<b>Apologies for Absence</b>	
2.	<b>Minutes</b>	
	<b>1. 18 March 2021</b>	<b>1 - 4</b>
3.	<b>SECTION 106, LOCAL GOVERNMENT FINANCE ACT 1992</b>  Those item(s) on the Agenda affected by Section 106 of the Local Government Finance Act 1992 will be identified at the meeting. Any Members so affected is reminded that (s)he should disclose the fact and refrain from voting on those item(s).	
4.	<b>DISCLOSURES OF INTEREST</b>  Members are reminded that they must disclose both the existence and nature of any disclosable pecuniary interest and any personal interest that they have in any matter to be considered at the meeting unless the interest is a sensitive interest in which event they need not disclose the nature of the interest. A member with a disclosable pecuniary interest must not further participate in any discussion of, vote on, or take any executive steps in relation to the item of business. A member with a personal interest, which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgment of the public interest, must similarly not participate in any discussion of, vote on, or take any executive steps in relation to the item of business. Disclosable pecuniary interests and Personal Interests are defined in the Council's Code of Conduct for Members and Co-opted members.	

**5. Urgent Business**

The Chair to report on any business which is considered to be urgent and which should be discussed at the meeting in accordance with Section 100B(4)(b) of the Local Government Act 1972 and to determine when, during the meeting, any such business should be discussed.

**6. REFERENCES FROM COMMITTEES AND OTHER BODIES**

**Reports**

**7. Constitution Review Update**

**5 - 9**

(Report of the Transformation Business Partner)

**8. Local Government Act 1972, Part VA**

To consider whether to pass a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting during consideration of any item listed above if it is likely that if members of the public were present during those items there would be disclosure to them of exempt information falling within the Paragraphs of Part1 of Schedule12A to the Local Government Act 1972.

# Constitution Committee

## Minutes

18 March 2021 at 6.00 pm

**Present:** Councillor Abbas Hussain (Chair), Councillors Abid, Franks, Mahmood Hussain, Javed, Masood, Timoney and Young.

### 1 Apologies for Absence (Ref 1)

Apologies for absence from the meeting was received from Councillors Moles, S. Saleem and Skepelhorn.

### 2 Minutes (Ref 2.1)

**Resolved:** That the minutes of the meeting held on 1 December 2020, be approved as a correct record of the meeting and the Chair be authorised to sign them in due course.

### 3 Constitution Review – Matters Affecting Development Control Committee (Ref: 7)

The Democracy Manager presented the report (Ref 7). She informed the committee the report was complex to include issues raised by the Sub Committee at the November meeting set out in the body of the report and the views of Development Control Committee (DCC) as requested by the Sub Committee on Constitutional matters. The committee was requested to consider each issue in turn and identify those, which should be a matter for DCC to determine and those that are constitutional matters.

The Democracy Manager referred the committee to paragraph 12 on page 8 in the report, which relates to later revisions to the threshold for objections to take an application to committee. She informed the committee that the consensus of 15 was considered too high and remained unresolved; and a lower compromise of between 5 or 6 from Officers had been suggested.

The committee agreed the temporary measures put in place to manage the pandemic were useful but were concerned on the threshold for applications for referral to committee which was based on number of objections received, and felt it was difficult to place or measure based on the numbers of objections received. In addition, enquired whether applications under the suggested threshold with only two serious objections and whether these would still be referred to committee. Concern was also raised on the removal of a members right to refer a matter to DCC under exception 7.1.

The Head of Development Management advised the level of summons objections was important to ensure democratic accountability to Luton residents and a member's right to refer a matter to committee would be retained and had not changed. Summons objections are assessed against the development plan to determine weight and measured against the policies in place to protect neighbours' concerns, which are taken into account and their impact. The development plan had been in place since 2017 approved by Full Council and exists to make the process more democratic. Currently it works well and could not recall where a decision which had been made contrary to a neighbour's concerns or that went against the development plan.

He further added the changes required were to improve the democratic process through the new scheme of delegation. Previously there had been a large number of objections to applications, which amounted to little or added to the process. The new scheme of delegation allows the council to focus on non-material objections to provide the right balance allowing for efficiency and more members involvement in planning applications.

A Member commented on the previous threshold for objections was 4 then raised to 15 due to the pandemic and the proposal was now for that figure to be further reduced to between 5 or 6. He further enquired if the number of objections was unlimited would that be a possible consideration and advised that the lower numbers were proposed to replace 15 introduced through the emergency scheme arrangements and now considered too high. Under the existing scheme the number was 4, which when taken back to DCC would probably agree a figure closer to that.

The Head of Development and Management further added the reason for the threshold was to bring it in line with other local authorities who had a similar process in place and found to be a more efficient use of resources. He asked the committee to consider the best way to optimise and assist members in making strategic decisions and allow Officers to do the rest. Officer decisions did not always sit well with members but felt the current threshold needed adjusting. Since the emergency measures had been in place DCC focused more on important applications to give members a greater chance to debate issues in more detail, and performance had improved in the speed and quality of decisions made, which is reflected in the reduced number of complaints received under the scheme of delegation when compared with complaints received last year. The review of the constitution to make it more efficient was why the changes to the threshold was suggested and there is no proposal to remove the right of councillors to bring applications to committee.

After debating, the issues set out in a) and b) in the report the committee agreed recommendations (i) and (ii) be referred back to DCC with the proviso that the removal of the threshold of objections makes no difference and the right for a member to refer a serious matter to DCC be retained.

In relation to (c) revising the 'right to speak' to reduce the amount of time the public are able to address the committee and the introduction of a time limit for ward councillors to speak. The committee agreed that should be referred back to DCC to determine.

In relation to (d) the renaming of the committee from Development Control Committee to Development Management Committee and name change to the post of the Service Manager Planning to Head of Development Management. The Committee agreed that should be a matter determined by Full Council and acknowledged most councils planning committees had adopted that terminology.

In relation to (e) introducing regular informal meetings for 'pre-applications the Committee agreed those should continue.

In relation to the deferral of an item in order for a site visit to take place be included in Part 16 of Protocol and Convention the Committee. The Committee agreed it should form part of the recommendation from this committee in the report to the Annual Council meeting in May.

**Resolved:** That the Committee agreed the recommendations below be referred back to Development Control Committee to determine:

- (i) Adding a proviso in the DCC scheme of delegation, that any proposal to alter exception 7.1 (which impacts on the ability of all members of the Council to send a matter to DCC that would otherwise have been agreed under delegated authority) requires the approval of Full Council;
- (ii) To relocate exception 7.1 to Standing Orders as a 'rule' in Part 4 of the Constitution which can then be revised only by Full Council
- (iii) Adding conditions to exception 7.1 that:
  - a. A second member (being a member of DCC) should be required to support the request to take a matter to DCC that would otherwise have been agreed under delegate authority;
  - b. Members should provide written reason as to why the application was being called to Committee
- (iv) That the renaming of Development Control Committee to Development Management Committee be determined at the Annual Council meeting in May.
- (v) That the Development of a protocol for DCC site visits to be included in Part 16 of the Council's Constitution (Other Protocols and Conventions) be determined at the May Annual Council meeting.

#### 4 Ward Member Protocol (Ref: 8)

The Monitoring Officer presented the report (Ref 8) which sought the approval for a Ward Member Protocol to be added to the Constitution.

The Committee was informed the purpose of the report was to ensure ward members are briefed in a timely manner on key and relevant issues in their ward and on neighbouring ward matters during an emergency. Over the last twelve months the Constitution Committee had consulted Group Leaders, Corporate and Service Directors on the draft protocol.

The Committee was asked to consider the following options:

- (a) To recommend the ward member protocol to full Council as set out in Appendix A to the report (Ref 8).
- (b) To recommend to Full Council the adoption of the Ward Member Protocol with amendments

The Committee welcomed the Ward Member Protocol and enquired when it would be implemented and advised that if agreed would be submitted to the Full Council meeting in May for adoption shortly after and reviewed in a year's time.

**Resolved:** (i) That the Ward Member Protocol be commended to Full Council for adoption.

(ii) That the Ward Member Protocol be reviewed in a year's time.

**NOTE:**

The Chair informed the Committee this was the last meeting attended by the Monitoring Officer and requested the Committee's thanks and appreciation to the Monitoring Officer for all her hard work over the years be recorded.

(Note: the meeting ended at 6:43 pm)

<b>Committee:</b>	<b>Constitution</b>			
<b>Date of Meeting:</b>	20 April 2021			
<b>Subject:</b>	Constitution review update			
<b>Report Author:</b>	Transformation Business Partner			
<b>Contact Officer:</b>	Paul Joghee tel: 07920181074			
<b>Implications:</b>	Legal	<input checked="" type="checkbox"/>	Community Safety	<input type="checkbox"/>
	Equalities	<input type="checkbox"/>	Environment	<input type="checkbox"/>
	Financial	<input type="checkbox"/>	Consultations	<input checked="" type="checkbox"/>
	Staffing	<input type="checkbox"/>	Other	<input type="checkbox"/>
<b>Wards Affected:</b>	All			

## Purpose

1. The purpose of this report is to provide an update to Committee on work completed and the revised timeline for completion following the work completed by the Association of Democratic Services Officers (ADSO).

## Recommendations

2. **The Committee is recommended to:**
  - (a) Note the work completed
  - (b) Note the revised timeline for completion

## Report

3. The 2020 case for change set out the key aims and objectives for the review.
  - a. To have a system of governance that identifies and reduces organisational inefficiency, allows timely decision making, provides appropriate devolution to officers to take and implement decisions (within the schemes of delegation framework), that elected members are comfortable with and confident in.
  - b. To review some of the administrative processes that give effect to the Scheme of Devolved Financial Management, the arrangements in place for managing executive reporting, the engagement of scrutiny and the specific rules applying to Development Control Committee.
  - c. Review and update the financial regulations, scheme of delegation and standing orders, as required.
  - d. Review the number of Parts within the constitution and agree what should be included within the new format.
  - e. Where possible, write in plain English and ensure that the whole document meets Equality Act 2010 requirements.



4. Progress to date
  - a. Case for change agreed
  - b. Procurement threshold changed to £5,000
  - c. Member consultation
  - d. Officer consultation
  - e. Accessibility and plain English work completed (except Part 4)
  - f. Parts 6 & 7 updated to include new officer portfolios and changes to job titles
  - g. Association of Democratic Services Officers (ADSO) completed the review of Parts 4, 6&7
  - h. Ward Member Protocol developed
  - i. The reduction in Parts removing HR policies pertaining to both Members and Officers
  - j. Digitisation work underway, landing pages, layout and search functionality
  - k. Development of a glossary
  - l. Proper Officer functions gap identified
5. We received 11 responses from the Member consultation, the key themes where:
  - a. It is too long, the language is sometimes difficult to understand
  - b. More involvement in decision making
  - c. There should be room for delegation but authority rests with the Members
  - d. Members should ultimately be responsible for decision making and be central to the process
  - e. Better communication with Ward Councillors
6. We received 34 responses from the consultation with Officers, key themes where:
  - a. A lack of understanding around processes and procedures
  - b. Inconsistency in the application of processes and procedures
  - c. Too many layers to make decisions
  - d. It is a long complicated document that lacks clarity
  - e. More devolved financial management and control over budgets
  - f. Clear processes and tool-kits needed to aide understanding
7. Accessibility and plain English review completed on all Parts with the exception of Part 4 are updated and available in the new format.
8. The Executive and Non-Executive scheme of delegation review completed by senior managers, this included all job role and job title changes and legislation.
9. The work that ADSO carried out highlighted a considerable number of issues within Part 4 and this will require detailed work to complete by experienced staff.
10. The work that ADSO carried out on Parts 6 highlighted that it contains non-executive delegations for example 2/213 refers to section 81 of the Building Act 1984. It also includes delegations that are operational such as processing right to buy, gathering equalities information, sending debts to finance to write off and these do not need to be in the scheme of delegation.

11. ADSO have suggested that we bring the Parts 6 & 7 together into one scheme reducing the overall size of the document and making it easier to use.
12. ADSO have also recommended a general delegation to Officers that would allow them to act on “anything not expressly reserved to the Executive or to any other Committee or Sub Committee”. This would provide cover for anything missed in the scheme.
13. Following the review of Part 7, ADSO have recommended we take a closer look at the following:
  - a. The Powers the Chief Executive to act in emergencies and for other Chief Officers to act in his/her name.
  - b. The general delegations for staffing
  - c. The discharge of functions relating to elections.
  - d. Appointing any panels – such as disciplinary panel for Chief Officers
  - e. Pensions and Early Retirement
  - f. Redundancy Payments
  - g. Settlement Agreements
  - h. Settling legal proceedings
  - i. Secondments
  - j. Ombudsman – agreeing local settlements
  - k. Anything relating to Council Companies? E.g. exercising voting rights at general meetings
  - l. All of the Statutory Officer delegations Section 151 and Monitoring Officer – for example the MO must have some delegations to deal with Standards matters.
  - m. A general delegation enabling designated officers to delegate down
  - n. The length of some of the delegations such as the Monitoring Officers power to amend the Constitution.
14. A revised version of the Ward Member Protocol presented to the Constitution Committee in March 2021 and commended to Full Council for adoption.
15. We have identified the Parts of the Constitution that are not required within the document itself, these Parts are as follows:
  - a. Part 11 – Code of Conduct for Employees – Human Resources Policy.
  - b. Part 12 – Whistleblowing Policy – Human Resources Policy.
  - c. Part 13 – Scheme of Members Allowances – Can be published separately on the website.
  - d. Part 14 – Registering of members Interests – Can be published separately on the website.
  - e. Part 15 – Register of Members – Can be published separately on the website.
  - f. Part 16 – Other Protocols – Could become an appendix to Part 4.
  - g. Part 17 – Complaints against Members – Can be published separately on the website.
  - h. Part 18 – Complaints procedure – Human Resources Policy.
  - i. Part 19 – Management structure – This could be added to Part 3.
  - j. Part 20 – Disciplinary and grievance procedure – Human Resources Policy.

16. The opportunity also exists to bring together Parts 3, 6 and 7 into one Part that covers the Responsibility for Functions and delegations, we would like to give this serious consideration going forwards.
17. The digitization work on the new layout and landing pages continues on the Parts that have met the accessibility requirements.
18. An overarching glossary is in development.
19. Work has started to close a gap highlighted by ADSO regarding “Proper Officer” functions, further details will be presented to Committee.

## **Proposal/Options**

19. To continue the work required to complete the review, as follows:
  - a. Review ADSO work on Part 4 and update document
  - b. Proper Officer definition to be agreed
  - c. Review Part 2 and update document
  - d. Confirm what Parts can be removed
  - e. Confirm next steps for Parts 3, 6 and 7 and update as appropriate
  - f. Continue the digitization work; developing the landing pages and navigation function with the Parts that have met the accessibility regulations.
  - g. Continue to develop the overarching glossary
20. As noted above, work to complete the review requires experienced Officers who have expertise in constitutional matters. This has presented a resourcing challenge to complete this work for Annual Council in May 2021. Following discussions with The Chief Executive, the reluctant steer, and noting the capacity to complete this big piece of work, is to pause the work until after the election and Annual Council and then to fully focus on working through the suggested changes. With this in mind, we have a revised timeline for completion by the end of 2021.

## **Appendix**

### **List of Background Papers - Local Government Act 1972, Section 100D**

20. None

## Implications

Item	Details	Clearance Agreed By	Dated
<b>Legal</b>			
<b>Finance</b>			
<b>Equalities</b>			
<b>Environment</b>			
<b>Community Safety</b>			
<b>Staffing</b>			
<b>Consultations</b>	As set out in the body of the report.	Angela Claridge, Monitoring Officer	11.03.2021
<b>Other</b>			