



CONSTITUTION COMMITTEE – 13 NOVEMBER 2018

REPORT OF THE CHIEF EXECUTIVE

REVIEW AND REVISION OF THE CONSTITUTION – MANAGEMENT OF TRUSTEE RESPONSIBILITIES

Purpose of the Report

1. The purpose of this report is to seek the Committee's approval to submit proposed changes to the Constitution regarding management of the Council's Trustee responsibilities to the County Council for approval.

Background

2. Article 15 of the County Council's Constitution gives the Chief Executive a duty to monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect. It requires that changes to the document should only be approved by the full County Council after consideration of the proposal by the Chief Executive and the relevant Committee which, in the case, is the Constitution Committee.

The Council's Trustee Responsibilities

3. The Council has been appointed as Trustee for a number of local charitable organisations and Trusts and holds property on their behalf.
4. The Council when acting as Trustee is obliged to act in the best interests of the Charity and must comply with the Charities Act 2011. Such provisions may include the need to seek independent advice or valuation for and proposed property transaction to ensure this is in the best interests of the Charity. Such information must be considered by the Council which must then approve the transaction in order for this to proceed.
5. It is up to each local authority to determine within the scope of local government law, what structures should be used to reach decisions in its name as trustee, as long as it is clear that any decisions taken by that body as trustee are in the interests of the Charity and are independent of the Council. Some authorities have established a separate committee to discharge such responsibilities. However, it is considered that for the County Council, this would not be necessary and these functions would most appropriately fit within the remit of the Constitution Committee.

6. The Council has, to date, considered only a limited number of matters which relate to property it holds on Trust. However, having conducted a review of such properties it is likely that there will be more activity in the future and it is therefore considered appropriate for arrangements to be put in place to manage this more effectively.

Changes to Part 3 (Responsibility for Functions) of the Constitution

7. Part 3 of the Constitution sets out the roles and responsibilities of the Council's Regulatory Bodies, including the Constitution Committee, and it details the functions which have been delegated to this and other Committees.
8. It is proposed that a further delegation be made to the Constitution Committee which would enable it to undertake decisions on behalf of the Council when it is acting in its capacity as a Trustee.
9. The current role and responsibility for functions of the Constitution Committee contained in the Constitution are set in the appendix attached to this report. It is proposed that a delegation be added to the list of current functions of the Committee in paragraph 3 to read as follows –

“Charitable Trustee. Those functions relating to the Council's role as a Charitable Trustee where the Council has been identified as a trustee of a charity or trust or the recipient of a bequest and holds property or assets on trust, including consideration of matters where there is a conflict or potential conflict between the Council's interests and those of the Charitable Trust or bequest.”

Recommendation

10. That the County Council be recommended to approve the proposed change to Part 3 (Responsibility for Functions) of the Constitution as set out in paragraph 9 of this report.

Background Papers

The Constitution of Leicestershire County Council.

Circulation under the Local Issues Alert Procedure

None.

Officers to Contact

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Appendix

Part 3 of the Constitution for Leicestershire County Council Roles and Responsibilities

Constitution Committee

1. The Constitution Committee shall not have power to appoint subcommittees, save in relation to members' allowances.
2. The extent to which the non-executive powers within the Committee's remit have been delegated to chief officers, either by the full County Council or by the Committee (or by any of the bodies previously charged with the functions now within its remit), will be found:
 - (a) in the general scheme of delegation to heads of departments which appears in Section D of this Part; and
 - (b) in the record of specific delegations maintained by the Chief Executive for public inspection at County Hall and which constitutes Part 9 of this Constitution.
3. Subject to the delegations described in paragraph 2, the functions delegated to the Committee shall be:
 - (a) **Elections.** Those functions relating to elections which are specified in Schedule 1 to the Functions Regulations and which are relevant to a county council.
 - (b) **Statement of Accounts.** Approval of the County Council's Statement of Accounts and those relating to the Leicestershire Pension Fund.
 - (c) **Names and status.** Those functions relating to the name and status of areas and individuals which are specified in Schedule 1 to the Functions Regulations and which are relevant to a county council.
 - (d) **Bills.** The power to promote or oppose local or personal Bills which are specified in Schedule 1 to the Functions Regulations and which are relevant to a county council.
 - (e) **Appointments.** Making and revoking appointments, except where the Executive has responsibility for the appointment or revocation, or where the Corporate Governance Committee has responsibility for the revocation.
 - (f) **Members' Allowances Scheme.** Advising the County Council on the Members' Allowances Scheme [*Note: approval of the scheme cannot be delegated by the County Council to a committee*].
 - (g) **Members' Services.** Approving the arrangements for providing appropriate support services to meet the needs of elected members.
 - (h) **Constitution.** Advising the County Council on the Constitution.

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