

REPORT OF THE CONSTITUTION COMMITTEE

A: REVIEW AND REVISION OF THE CONSTITUTION - MANGEMENT OF TRUSTEE RESPONSIBILTY

Introduction

1. This report concerns changes to the Constitution related to the management of the County Council's Trustee responsibilities.

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 the aims and principles of the Constitution 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 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.”

Decision of the Constitution Committee

10. The Constitution Committee at its meeting on 13th November 2018 supported the changes proposed and its recommendation is set out in the motion below:-

(Motion to be moved:-

That the proposed changes to Part 3 (Responsibility for Functions) of the Constitution relating to the extension of role and responsibilities of the Constitution Committee to deal with the functions of the County Council as a Charitable Trustee, be approved.)

Background Papers

The Constitution of Leicestershire County Council.

Appendices

Appendix 1 – Part 3 of the Constitution – Role and Responsibilities of the Constitution Committee.