

COUNCIL

4 September 2023

REVISIONS TO THE CONSTITUTION

Report of the Constitution Commission

Strategic Aim:	A Modern and Effective Council	
Exempt Information	No	
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Ward Councillors	All	

DECISION RECOMMENDATIONS

That Council approves the:

1. Officer/Member Protocol at Appendix A.
2. Amendments, as set out in Paragraph 3 of the Report, to the following parts of the Constitution:
 - i) Procedure Rule 48 Seal of the Council;
 - ii) Contract Procedure Rule 18.3 Sealing a Contract;
 - iii) Article 13(5) Seal of the Council; and
 - iv) Procedure Rule 23(15) Responsibility of a Chairman, Vice-Chairman or a Person presiding at a Meeting

1 PURPOSE OF THE REPORT

- 1.1 To obtain Council's approval to replace the current Officer/Member Protocol with the revised Officer/Member Protocol (Appendix A); to amend the Constitution to specifically refer to electronic signing and sealing, and to amend Procedure Rule 23(15) which is currently incorrect.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 The current Officer/Member Protocol is dated December 2020. It is contained within the Constitution but was not reviewed when the Constitution was amended in May 2022. It is therefore timely for it to be reviewed to ensure that it provides an appropriate framework for officer/member working.
- 2.2 The revised Protocol provides guidance on how members and officers should work together effectively to deliver positive outcomes for Rutland's residents, businesses, and communities. It seeks to apply the Nolan principles (the seven principles of public life) into practice and provides guidance on the best practice means of meeting those standards.
- 2.3 In January 2023, Rutland County Council introduced electronic signing and sealing following approval for the use of DocuSign, from the Corporate Leadership Team. The Constitution is currently drafted in broad terms but to ensure robustness when using the procedure, it is preferable for it to be specifically referred to in the Constitution.
- 2.4 Council's approval to amend the Constitution to directly refer to the ability to sign and seal electronically is sought.
- 2.5 In all instances except one the casting vote provisions in the Constitution are correct. Council's approval is sought to amend the one error in Procedure Rule 23(15). This procedure should align with the other provisions which refer to casting votes and should not place any restrictions on how a casting vote should be exercised.
- 2.6 The recommendations are supported by the Constitution Commission. The Commission has considered the recommendations in detail, in particular the revised Protocol. The revised Protocol reflects the Commissions input.

3 DETAIL OF THE RECOMMENDED AMENDMENTS

- 3.1 There are six recommended amendments to the Constitution which are as follows:
- 3.2 Council is recommended to replace the existing Officer Member Protocol with the revised Officer/Member Protocol in Appendix A.
- 3.3 Procedure Rule 48.4 (Seal of the Council). The current wording of this rule is:

'Every document, which has the Common Seal on it, must be recorded and consecutively numbered in a book kept for that purpose, which shall be open to inspection by any Member of the Council.'
- 3.4 The electronic signing and sealing process automatically allocates a unique reference code for each document, which is stored in an electronic filing system. A report of the documents and their unique reference codes can be generated. In the instances where the Common Seal is affixed manually these documents will be scanned into the electronic system to generate a unique reference code and ensures that the electronic system is a complete record of all documents to which the Common Seal is applied, by whichever method. It is no longer necessary to keep a record in a book. It is proposed that the current wording is replaced with the following:

3.5 (Recommended Amended)) Procedure Rule 48.4:

A record shall be kept of every document, to which the Common Seal is applied. The record shall be available for any Member of the Council to inspect, upon request.

3.6 It is proposed that the following Sub-Rule is added to Procedure Rule 48 to specifically refer to use of an electronic Common Seal.

(Recommended Additional) Procedure Rule 48 5

The Common Seal of the Council may be affixed either by physical means or by such electronic means as the Strategic Director for Law and Governance may from time to time authorise. References in this Rule and elsewhere in the Constitution to the Common Seal (or the Seal) of the Council and to the sealing of documents shall be taken to refer to the official seal and any accompanying attesting signature as being affixed either by physical means or by the electronic means provided for in this Rule.

3.7 It is proposed that a sub-rule is added to Contract Procedure Rule 18.3 to reflect the changes in the Constitution Procedure Rules in relation to use of an electronic seal.

(Recommended Additional) Contract Procedure Rule (Sealing a Contract) – CPR 18.3.3.

As provided for in Procedure Rule 48 the Common Seal of the Council may be affixed by physical means or by electronic means authorised by the Strategic Director for Law and Governance. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

3.8 It is recommended that an additional sentence is added to the current Article 13.5 to specifically refer to sealing electronically. The additional sentence is highlighted below in bold.

Article 13.5

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Chief Executive, or the Strategic Director for Law and Governance, or some other person authorised by them. **The Common Seal may be affixed by physical means or by electronic means authorised by the Strategic Director for Law and Governance.**

3.9 It is recommended that Procedure Rule 23(15) (Responsibility of a Chairman, Vice-Chairman or a Person presiding at a Meeting) is amended from:

3.10 To exercise a second or casting vote in the event of a tied vote upon a proposition. The person exercising a second or casting vote shall be expected to use it in support of an Officer's recommendation or in favour of maintaining an existing policy or situation unless they are of the opinion that there are exceptional circumstances which require them to vote otherwise.

3.11 To the following:

3.12 To exercise a second or casting vote in the event of a tied vote upon a proposition. There will be no restriction on how the Chair or person presiding chooses to exercise a casting vote.

4 CONSULTATION

4.1 The Council's Corporate Leadership Team and the Constitution Commission have been consulted.

5 ALTERNATIVE OPTIONS

5.1 Council could decide to not approve the revised Officer/Member Protocol and the current Member/Officer protocol would remain. This option is not recommended, as the current Protocol is outdated and no longer fit for purpose.

5.2 The Constitution could remain unchanged. The benefits of making the amendments are set out in the report.

6 FINANCIAL IMPLICATIONS

6.1 There are no financial implications.

7 LEGAL AND GOVERNANCE CONSIDERATIONS

7.1 The purpose of the revised Protocol is to provide guidance for members and officers to help them work and interact in an efficient and professional way to support the overall good governance of the Council.

7.2 It supports good governance for the Constitution to accurately reflect the current processes of the Council and the correct legal position.

8 DATA PROTECTION IMPLICATIONS

8.1 A Data Protection Impact Assessments (DPIA) has not been completed for the following reasons because there are no risks/issues to the rights and freedoms of natural persons.

9 EQUALITY IMPACT ASSESSMENT

9.1 An Equality Impact Assessment (EqIA) has not been completed as there are no Equality & Diversity implications.

10 COMMUNITY SAFETY IMPLICATIONS

10.1 There are no Community Safety implications.

11 HEALTH AND WELLBEING IMPLICATIONS

11.1 A more effective Member/Officer protocol will better support the health and wellbeing of Members and Officers.

12 ORGANISATIONAL IMPLICATIONS

- 12.1 Environmental implications
- 12.2 The use of electronic signing and sealing has a beneficial impact on the environment as it removes the need to print, copy and retain documents, some of which exceed 100 pages.
- 12.3 Human Resource implications
- 12.4 The use of electronic signing and sealing is time saving and therefore reduces the human resource required to complete the process.
- 12.5 Procurement Implications
- 12.6 There are no procurement implications arising from the amendments to the Constitution.

13 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 13.1 Implementing the revised Officer/Member Protocol will provide a framework for members and officers to work together effectively to deliver positive outcomes for Rutland's residents, businesses, and communities.
- 13.2 It is recommended that Council approves the proposed amendments to the Constitution. The changes to the Council Procedure Rules and the Contract Procedure Rules will support the Council in being a modern and effective Council.

14 BACKGROUND PAPERS

- 14.1 There are no background papers.

15 APPENDICES

- 15.1 Appendix A – revised Officer/Member Protocol.

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.