

COMMITTEE REPORT

CONSTITUTION AND MEMBERS' DEVELOPMENT COMMITTEE

25 March, 2015

REVIEW OF THE COUNCIL'S CONSTITUTION

Assistant Director – Organisation and Governance

PURPOSE OF THE REPORT

1. To consider the revised copy of the Council's Constitution.

BACKGROUND

2. Members will recall that the Chair of the Council announced at Council on 15th October 2014, that a review of the Council's Constitution was to take place as an in depth review of the Constitution had not taken place for a number of years. Members were provided with the opportunity to submit any views they might have.
3. The Council Procedure Rules were considered and approved by Full Council on 26 November 2014. However following the introduction of new legislation (The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014) on 25 February 2014, which requires the Council to conduct a recorded vote at any Council meeting making a decision on the Council's annual budget, the Council Procedure Rules have been amended to include this provision under Paragraph 103 (Page 121).
4. The revision of the Constitution has now been completed. The changes that have been made to the Constitution fall within the following broad categories:
 - General review and update, including revision of the Members' Code of Conduct and procedure;
 - Necessary alterations to the scheme of delegation arising as a result of the Council's new Management Structure;
 - Changes to Council policies to reflect the introduction of the Middlesbrough Manager Model;
 - Alterations made under the delegated powers given to the Monitoring Officer to deal with changes as a result of legislative changes; and

- Changes to improve the working arrangements of the Council.

5. **General review and update**

Every section of the Council's constitution has been reviewed and updated where necessary. The following sections of the Constitution have been reviewed and will now appear within the Members Handbook rather than the Constitution:

- Protocol Relating to Residents of Other Wards;
- Licensing Protocol – Licensing Hearings – Licensing Act 2003;
- Licensing Protocol – Licensing Hearings – Gambling Act 2005;
- Code of Practice for Dealing with Planning Applications and Related Matters;
- Ethical Framework – Members Code of Conduct – Alleged Breaches – Monitoring Officer;
- Ethical Framework – Members Code of Conduct – Alleged Breaches – Legal Advice;
- Protocol on the use of Council IT, Email and Internet Facilities;
- Protocol for Criminal Records Bureau Checks (now Disclosure and Barring Service Checks);
- Information Protocol;
- First Citizen Duties; and
- Council Petitions Scheme.

In addition, the Code of Conduct has been updated to provide clearer guidance on the circumstances in which members will be covered by the Code of Conduct, the declaration of non-pecuniary interests, and has been rewritten to be easier to understand. In addition, it is intended to introduce a six-month time limit for complaints under the Code of Conduct, to ensure that complaints are submitted in a timely fashion.

6. **Necessary alterations to the scheme of delegation arising as a result of the Council's new Management Structure**

Following the implementation of the revised Management Structure, responsibilities for functions were reviewed and the changes are reflected under Part 3 – Responsibility for Functions (Page 47 – 66).

7. **Changes to Council policies to reflect the introduction of the Middlesbrough Manager Model**

The Head of Human Resources is currently reviewing the Employee Code of Conduct and the Protocol for Officers on Gifts and Hospitality and it is requested that the alterations made be approved under the delegated powers given to the Monitoring Officer to deal with minor alterations and changes.

8. **Alterations made under the delegated powers given to the Monitoring Officer to deal with changes as a result of legislative changes**

- Following the introduction of new legislation (The Openness of Local Government Bodies Regulations 2014) which requires officers to produce a written record of certain decisions they may take, necessary changes were made to Article 13 – Decision Making (Page 41) and the Access to Information Procedure Rules (Page 140).
- The above regulations also include a provision that will enable any person attending a public meeting (or part of a meeting) to "report" on that meeting. "Reporting" is defined as filming, photographing or making an audio recording of proceedings at a meeting. Consequently filming of Council and Executive meetings (which includes committees and sub-committees) will be permitted. In accordance with the above the Council adopted a Code of Conduct on the Filming of Public meetings and this has been included in the Constitution (Page 283).
- Following the recent Ward Boundary Review, Article 2 (Page 11) has been amended to reflect the new composition of the Council from May 2015.
- The Government has issued draft legislation (Local Authorities (Functions and Responsibilities) (England) Regulations 2015) which will consolidate the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and 15 subsequent amending Regulations.

The Regulations will also take account of current circumstances and policies, delete references to legislative provisions that have been revoked or are otherwise no longer required, reference new legislation as appropriate, and give effect to current Government policies.

The Government have not indicated when the new legislation will come into force but it could impact upon a number of sections of the Constitution such as Part 3 - Responsibility for Functions and the Executive Scheme of Delegation.

It is proposed that any alterations as a result of the new legislation be made under the delegated powers given to the Monitoring Officer to deal with changes as a result of legislative changes. A report confirming the amendments would be submitted to Council for information.

9. **Changes to improve the working arrangements of the Council**

The Council's Policy Framework has been revised to reflect the working arrangements of the Council and remove any plans that are now obsolete.

FINANCIAL CONSIDERATIONS

10. There are no financial implications arising from this report

RECOMMENDATION

11. That views of the Committee are sought on the revised Constitution.

BACKGROUND PAPERS

12. - The Council's Constitution
- Local Authorities (Functions and Responsibilities) (England) Regulations 2015
- The Openness of Local Government Bodies Regulations 2014
- The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014

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