

Report of:	Monitoring Officer
-------------------	--------------------

Submitted to:	CONSTITUTION AND MEMBERS' DEVELOPMENT COMMITTEE
----------------------	---

Subject:	Review of the Constitution
-----------------	----------------------------

Summary

Proposed decision(s)
<ol style="list-style-type: none"> 1. The Committee agrees the proposed approach to a comprehensive review of the Constitution, and notes the requirement for additional meetings of the Committee; 2. The Committee considers whether a member working-group should be established to feed into the constitutional review process; 3. The Committee considers the requested addition to the Council Procedure Rules; 4. The Committee endorses the reconstitution of the Corporate Parenting Board as a Committee of Council, under the membership and Terms of Reference set out in Appendix 1 to this report, and commends it to Council for approval; and 5. The Committee endorses the minor amendments to the Constitution set out in Appendix 2, and commends them to Council for approval; and 6. The Committee notes the amendments set out in Appendix 3 to this report, which were previously agreed by Corporate Affairs and Audit Committee, and commends them to Council for approval.

Report for:	Key decision:	Confidential:	Is the report urgent?
Decision	No	No.	No.

Contribution to delivery of the 2018-22 Strategic Plan		
Business Imperatives	Physical Regeneration	Social Regeneration
The Monitoring Officer is required to keep the Constitution under regular review, to ensure it is fit for purpose.	An up to date Constitution will ensure appropriate decision-making mechanisms are in place to support Member decisions.	

Ward(s) affected
No Wards are directly affected by this report.

What is the purpose of this report?

1. To agree an approach to the review of the Constitution; to consider whether a member working-group should be established to feed into the constitutional review process; to consider a requested addition to the Council Procedure Rules; to recommission the Corporate Parenting Board as a Committee of Council; and to endorse attached minor amendments to the Constitution, for subsequent presentation to Council.

Why does this report require a Member decision?

2. Substantial or significant amendments to the Constitution are a Member decision, considered via the Constitution and Members' Development Committee before being presented to full Council for a decision.

Report Background

3. This report seeks to deal with a number of separate issues: a suggested methodology for a sequential review of the Constitution; to consider whether a member working-group should be established to feed into the constitutional review process; a Member request for consideration of an amendment to the Council Procedure Rules; the recommissioning of the Corporate Parenting Board as a Committee of Council (with the suggested membership and Terms of Reference set out in Appendix 1 to this report); and endorsement of a tranche of minor amendments to the Constitution (as set out in Appendix 2 and 3 to this report).

Review Methodology

4. As Members will appreciate, a comprehensive review of the Constitution is both complex and time-consuming, both for the officer(s) involved, and for Members considering any amendments. With this in mind, it is proposed that a number of reports will be presented to the Constitution and Members' Development Committee over the coming months, each dealing with a different segment of the Constitution.
5. In anticipation of the review, the Monitoring Officer has met with the Members and Statutory Services Manager to allocate elements of the overall review to different officers. These elements, when complete, will be reported to the Constitution and Members' Development Committee for consideration, allowing Members to focus on smaller elements of the Constitution at each meeting whilst processing a review of the entire document.
6. This approach minimises the disruption in day-to-day workloads for all officers concerned, and will ensure a swifter review than if the issue were left to one officer alone. As a consequence of the approach, however, it will be necessary to arrange additional meetings of the Constitution and Members' Development Committee, to allow for the consideration of all elements.

Member Working Group

7. In any review of the Constitution, the end result alters the relationship between Members and officers, and determines how Council and its departments conduct business. It therefore seems appropriate to seek the views of the Constitution and Members' Development Committee as to whether it would like to see a member working group established to feed views into the drafting stage of the Constitution, or whether the Committee would prefer to remain separate from the preparation stage of the revised document, in order to independently scrutinise the proposed amendments.

Council Procedure Rules

8. A member has raised an issue in relation to the treatment of applicants and objectors in meetings of the Planning and Development Committee, particularly in circumstances where there are multiple objectors to a given scheme. To date,

convention has dictated that both 'sides' be given a maximum of 5 minutes address that committee prior to the determination of the application; similarly, convention has provided that where there are multiple objectors, the Chair's discretion is used to extend the 5 minute period to a figure considered appropriate at the time. These conventions, however, are not codified in the Constitution.

9. The member is concerned that in cases where there are multiple objectors, the 5 minute period is insufficient, and has requested that consideration be given to extending that period, codifying it in the process. Members' views on this issue are, therefore, sought.

Corporate Parenting Board

10. Members may recall that, over the past 15 years or so, the Corporate Parenting Board has variously been constituted as a Committee of Council (with politically balanced membership and defined Terms of Reference, including decision-making powers); an advisory body to the Executive (which was not politically balanced, and had no decision-making powers); and an officer-led group; in 2018 it reverted to being an advisory body to the Executive.
11. Following discussions with the Chair of the Corporate Parenting Board, together with the Executive Director of Children's Services, it is now considered appropriate to reconstitute it as a Committee of Council. To that end, a draft Membership and Terms of Reference document has been produced, and is attached as Appendix 1 to this report.
12. Members are asked to consider the reconstitution of the Corporate Parenting Board in accordance with the draft Membership and Terms of Reference, and to commend it to Council for approval. In the event that Council approves the reconstitution of the Board, its details will be included in the Constitution as necessary.

Amendments to the Constitution

13. Members will also find, at Appendix 2 and 3, a number of proposed amendments to the Constitution, for their consideration and endorsement to Council. These amendments can be categorised as: minor administrative amendments to the "Monitoring Officer Protocol", "Statutory Officer Profiles", and "Proper Officer Functions" sections of the Constitution (Appendix 2); and the removal of the requirement for originating officer names to be included on reports (Appendix 3).
14. The amendments set out in Appendix 2 can best be described as a 'tidying up' exercise, in that the contents remain almost exclusively the same as at present, subject to minor amendments and clarifications which are evident. It is not considered that any of the amendments are significant, but Members views and endorsement is sought, prior to the presentation of the amendments to Council for determination.

Code of Corporate Governance

15. The Council has, on a number of occasions in recent years, revised the Code of Corporate Governance contained within the Constitution, with such amendments being considered and approved by the Corporate Affairs and Audit Committee. Most recently, the Code was considered at a meeting on 8 February 2018, when Members agreed not to revise the code further. As a consequence, the current Code, set out

in Appendix 3, remains the active document, and requires incorporation into the Constitution, at Part 7. Members are, therefore, requested to note the attached, prior to the presentation of this amendment to Council for determination.

What decisions are being asked for?

16. It is requested that the Committee:
- a) agrees the proposed approach to a comprehensive review of the Constitution, and notes the requirement for additional meetings of the Committee;
 - b) considers whether a member working-group should be established to feed into the constitutional review process;
 - c) considers the requested addition to the Council Procedure Rules;
 - d) endorses the reconstitution of the Corporate Parenting Board as a Committee of Council, under the membership and Terms of Reference set out in Appendix 1 to this report, and commends it to Council for approval;
 - e) endorses the minor amendments to the Constitution set out in Appendix 2, and commends them to Council for approval; and
 - f) notes the amendments set out in Appendix 3 to this report, which were previously agreed by Corporate Affairs and Audit Committee, and commends them to Council for approval.

Why is this being recommended?

17. The Constitution is a living document, which is under constant review. The proposed actions set out above will facilitate the ongoing updating of the Constitution, to ensure its continued fitness for purpose.

Other potential decisions and why these have not been recommended

18. It is open to the Committee to determine that the Constitution should remain in its current condition; however, changing circumstances and a continued desire to improve suggests that regular updating is appropriate.

Impacts of recommended decisions

19. The impacts of the decisions will be to ensure a timely review of the Constitution, with such input as the Committee considers appropriate, and for subsequent reports to be presented to the Committee and Council as necessary.

Legal

20. The continued updating of the Constitution is entirely in line with the duties of the Monitoring Officer, and has no adverse impacts upon the Council; rather, the updating will ensure that the Constitution is as up to date as possible.

Financial

21. There are no financial implications of the report.

Policy Framework

22. The Constitution sets the policy framework for the Council. It is therefore imperative that the key document is updated to ensure an up to date policy framework.

Equality and Diversity

23. There is no adverse impact on protected groups as a result of the proposed recommendations.

Risk

24. There is no additional risk to the Council as a result of the proposed recommendations.

Actions to be taken to implement the decision(s)

25. The impacts of the decisions are as follows:
- firstly, further work will take place on the updating of the Constitution, with additional reports being presented to the Committee;
 - secondly, if the Committee considers a Working Group useful, it will be established in accordance with the usual principles, and will seek representatives from all political groups;
 - thirdly, if the Committee considers it appropriate to revise the Council Procedure Rules, a proposed text will be presented to Committee at a future meeting; and
 - fourthly, a report will be presented to Council seeking agreement to the revisions set out in Appendices 1 to 2.

Background papers

26. No background papers were used in the preparation of this report

Appendices

Appendix 1 – draft Membership and Terms of Reference for Corporate Parenting Board.

Appendix 2 – suggested amendments to the Monitoring Officer Protocol, Statutory Officer Profiles, and Proper Officer Functions.

Appendix 3 – amendments to the contact details provided on a report under the Code of Corporate Governance

Contact: Bryn Roberts, Monitoring Officer

Email: bryn_roberts@middlesbrough.gov.uk