

## CONSTITUTION AND MEMBERS' DEVELOPMENT COMMITTEE

**Date:** Friday 4th March, 2022  
**Time:** 3.00 pm  
**Venue:** Virtual

**Please note this is a virtual meeting.**

**The meeting will be livestreamed via  
the Council's YouTube channel at  
[Middlesbrough Council - YouTube](#)**

### AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes Constitution and Members' Development Committee  
- 10 December 2021 3 - 6
4. Verbal Update - Review of Constitution  
  
A verbal update will be provided by Andrew Glover – Head of  
Marketing and Communications
5. Constitution Update 7 - 14

Charlotte Benjamin  
Director of Legal and Governance Services

Town Hall  
Middlesbrough  
Date Not Specified

MEMBERSHIP

Councillors J Hobson (Chair), A Bell (Vice-Chair), J Thompson, A Hellaoui, B Hubbard, D Rooney, M Saunders, M Storey and C Wright

**Assistance in accessing information**

**Should you have any queries on accessing the Agenda and associated information please contact Joanne McNally, (01642) 728329, [joanne\\_mcnally@middlesbrough.gov.uk](mailto:joanne_mcnally@middlesbrough.gov.uk)**

**CONSTITUTION AND MEMBERS' DEVELOPMENT COMMITTEE**

A meeting of the Constitution and Members' Development Committee was held on Friday 10 December 2021.

**PRESENT:** Councillors J Hobson (Chair), A Hellaoui, B Hubbard, D Rooney, M Saunders, M Storey and J Thompson

**OFFICERS:** C Benjamin, S Reynolds, A Glover and J McNally

**APOLOGIES FOR ABSENCE:** Councillor A Bell

10 **MINUTES CONSTITUTION AND MEMBERS' DEVELOPMENT COMMITTEE - 8 OCTOBER 2021**

The minutes of the Constitution and Members' Development Committee held on 8 October 2021 were approved as an accurate record.

11 **DECLARATIONS OF INTEREST**

There were no declarations made at this point in the meeting.

12 **CONSTITUTION UPDATE**

The Director of Legal and Democratic Services presented the report and advised the Committee and Members of the public watching the broadcast that the Constitution was a live document that was continually updated.

The Committee were advised that occasionally amendments were needed to reflect changes in policy and legislation whilst others dealt with inconsistencies and presentational issues that had no effect on the agreed procedural rules. Other minor amendments were required to deal with the results of new legislation and did not require a change in Council processes.

Members heard that the changes to the Constitution fell within three broad areas, which are described as follows:-

- a. Alterations made as a result of decisions of either the Council or the Executive.
- b. Alterations made under the delegated powers given to the Monitoring Officer to deal with changes required as a result of legislative changes.
- c. Alterations to improve the working of the Council or, to attempt to resolve ambiguities or amend typographical or drafting errors.

The following amendments were proposed under paragraph (c)

a) **Council Procedure Rules**

Change of the word **must** to **should** in paragraph 76 of Council Procedure Rules

An amendment to an ordinary motion ~~must~~ **should** be submitted, in writing, 2 clear working days before the meeting and must be relevant to the motion and will either be:

- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (b) to leave out words;
- (c) to leave out words and insert or add others; or
- (d) to insert or add words,

as long as the effect of (b) to (d) is not to negate the motion, or introduce a new proposal.

**b) Officer Employment Procedure Rules**

Change of wording for the Appointment of Head of Paid Service to provide for the appointment to be made by Full Council or by recommendation from the Chief Officer Appointments Committee.

Appointment of Head of Paid Service

(a) The appointment of the Head of Paid Service will be **made directly by Full Council, or by an Appointment Committee. The Appointment Committee will be made up of 7** members nominated annually by the Council and will include the Elected Mayor, Deputy Mayor and the relevant portfolio holder. The appointment of the Head of Paid Service will be approved by the full Council following the recommendations of the Appointment Committee.

(b) The full Council may only approve the appointment of the Head of Paid Service where no well-founded objection has been received from any member of the Executive, within three days of notification of the recommended candidate.

**c) Councillor Calls for Action**

Insert Procedure and Guidance for Councillor Calls for Action into the Constitution.

Following the last meeting of the Constitution and Members' Development Committee at which the next set of priorities were agreed the Director of Legal and Governance Services sought agreement on the timetable for each of the priorities to be reviewed.

It was proposed that additional meetings of the Constitution and Members' Development Committee were scheduled to ensure that each of the priorities could be reviewed in a timely manner.

**AGREED** as follows:-

- a) That the change of the word **must** to **should** in paragraph 76 of Council Procedure Rules be approved and referred to full Council
- b) That the change of wording for the Appointment of Head of Paid Service to provide for the appointment to be made by Full Council or by recommendation from the Chief Officer Appointments Committee be approved and referred to full Council
- c) That the Procedure and Guidance for Councillor Calls for Action is inserted into the Constitution be approved and referred to full Council.
- d) The timetable for each of the priorities to be reviewed was agreed

- e) Additional meetings would be scheduled to ensure that each of the priorities could be reviewed in a timely manner

13 **POLITICAL BALANCE**

The Director of Legal and Governance Services presented the report to the Committee. The report proposed the inclusion of the Political Balance Procedure Rules within Part 6 – Rules and Procedures, of the Council’s Constitution.

**AGREED** as follows:-

The Constitution and Members’ Development Committee considered and endorsed the proposed Political Balance Procedure Rules, for submission to and approval by Full Council, for inclusion within the Council’s Constitution.

14 **SOCIAL MEDIA FRAMEWORK: POLICY AND GUIDELINES FOR ELECTED MEMBERS**

The Director of Legal and Governance Services presented the report to the Committee. The report proposed the introduction of a new Social Media Framework (Policy and Guidelines) for Elected Members, for inclusion within the Members’ Handbook.

The Committee heard that following concerns raised by some Members, an Ad Hoc Scrutiny Panel was convened to discuss how Members utilised social media as part of their communication activities.

The panel found that:

- a) there were inconsistencies between how Members utilised social media, and
- b) there was no overarching framework to provide guidance on how to utilise social media effectively and equitably.

Following the Ad Hoc Scrutiny Panel’s investigation, the recommendations submitted to and endorsed by Executive on 7 September 2021 were as follows:

1. *That a communications plan be implemented that aligns with the refreshed Strategic Plan 2021-2024 to ensure consistency and direction of council communications.*
2. *To ensure Members are well versed on social media etiquette; a training package be delivered to Members on the appropriate use of social media. Training should be carried out as a mandatory requirement on an annual basis (minimum).*
3. *That the principles of proper behaviour on social media be reflected in the revised Member Code of Conduct; and*
4. *As a corollary of recommendations one and two; a framework be developed to provide clarity to all Members on the appropriate use of social media.*

In response to recommendation 4, the social media framework (incorporating policy and guidelines for Elected Members) had been produced.

Members were advised that the key risk to the Council of not embracing the proposed framework was reputational damage as a consequence of inappropriate communications being transmitted.

It was also advised that the Members’ Code of Conduct may require amendment as a result of the introduction of the Social Media Framework.

It was proposed that Members would require a briefing on the requirements and implications of the Social Media Framework.

**AGREED** as follows:-

Members approved the proposed Social Media Framework: Policy and Guidelines for Elected Members, for inclusion in the Members' Handbook with the following change:

1. *To ensure Members are well versed on social media etiquette; a training package be delivered to Members on the appropriate use of social media. Training should be carried out as a mandatory requirement upon election.*

15 **GDPR FOR ELECTED MEMBERS**

The Head of Democratic Services informed the Committee that e-learning GDPR training for Elected Members had been developed. The Head of Democratic Services stated that GDPR training was not currently mandatory for Elected Members. The Committee was asked to agree to the training becoming mandatory and the Member Development Framework be updated to reflect this change.

The Head of Democratic Services asked the Committee to consider how it was reported or what sanction would be imposed if an elected member did not undertake the training. Members were asked to consider if it would become a standards issue or a breach of the code of conduct. The Head of Service suggested that a public report could be produced detailing members who have undertaken the training.

**AGREED** as follows:-

The GDPR e-learning training would be made mandatory for Elected Members and the Member Development Framework would be updated to reflect this.

The Committee asked that potential sanctions be investigated further and brought back to a future meeting of the Committee.

16 **COUNCIL PETITIONS/PRIVATE PETITIONS**

It was agreed that the item on petitions would be brought to the Corporate Affairs and Audit Committee.

<b>Report of:</b>	Director of Legal and Governance Services and Monitoring Officer - Charlotte Benjamin
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<b>Submitted to:</b>	Constitution and Members' Development Committee – 4 March 2022
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<b>Subject</b>	Update - Council Constitution
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**Summary**

<b>Proposed decision(s)</b>
<p>To endorse the proposals to update the Constitution as follows:</p> <p>That Council approves the proposed changes to the Constitution as detailed in the report and notes that the Monitoring Officer will, under delegated powers, amend the Constitution accordingly.</p>

<b>Report for:</b>	<b>Key decision:</b>	<b>Confidential:</b>	<b>Can be called-in:</b>
Endorsement	No	No	No

<b>Contribution to delivery of the 2021-24 Strategic Plan</b>		
<b>People</b>	<b>Place</b>	<b>Business</b>
<p>The Constitution sets out how the Council operates, how decisions are made and the procedures, which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.</p>		

<b>Ward(s) affected</b>
Not applicable

**What is the purpose of this report?**

1. The Council's Constitution is subject to continual review together with any associated documents e.g. Scheme of Delegation, Procedure Rules and protocols to ensure that decisions taken by the Council are lawful and reflect changes in legislation and Council priorities. This report details proposed amendments to the Constitution.

## **Why does this report require a Member decision?**

2. The Constitution is a live document, which from time to time requires adjustment to reflect how the Council operates. Occasionally amendments are needed to reflect changes in policy and legislation whilst others deal with inconsistencies and presentational issues that have no effect on the agreed procedural rules. Other minor amendments are required to deal with the results of new legislation and do not require a change in Council processes.
3. Article 4.2 (a) specifies that only Council will have responsibility for adopting, amending and changing the Constitution, apart from the specific delegations to the Monitoring Officer to make any necessary minor textual changes or further adjustments to comply with any subsequent legislative changes, changes to reflect decisions taken by Council and/or Executive and changes which are of typographical/drafting error nature. The role of the Constitution and Members' Development Committee is to consider the proposed amendments and recommend to Council that the proposed changes are incorporated within the Council's Constitution.

### **Background**

4. A phased review of the Constitution is underway to ensure that the Constitution is fully up to date. Some topics were prioritised last year and since then amendments have been made on various topics such as motions, votes of no confidence, voting on appointments, and the Member Code of Conduct has now been refreshed following approval by Council
5. This report seeks the approval of the proposed changes to the Constitution as detailed below and notes that the Monitoring Officer, under delegated powers has authorisation to amend the Constitution in the circumstances outlined in paragraph 3 above.
6. The changes to the Constitution generally fall within three broad areas, which can be described as follows:-
  - a. Alterations made as a result of decisions of either the Council or the Executive.
  - b. Alterations made under the delegated powers given to the Monitoring Officer to deal with changes required as a result of legislative changes.
  - c. Alterations to improve the working of the Council or, to attempt to resolve ambiguities or amend typographical or drafting errors
7. The following amendments to the Council Procedure Rules are proposed under paragraph (c) above.

### **1. Council Procedure Rules**

#### **Recorded vote**

#### **Amendment to Paragraph 65**



If 12 councillors present at the meeting demand it, or if a motion related to a decision with regard to the approval of the annual budget, **the council tax or the issuing of the precept**, the names for and against the motion or amendment or abstaining from voting will be recorded and entered into the minutes. A demand for a recorded vote will override a demand for a secret ballot (which can be used when voting for positions on committees).

## **2. Cancellation of Council Meetings**

**In order to provide clarity it is proposed that the text to be amended to include Once the proper officer has given notice and summons of a meeting**, the Chair, or the Vice Chair in the Chair's absence, (or the Monitoring Officer if they are satisfied that there is no appropriate business to be considered at the meeting), can postpone, re-arrange or cancel a meeting of Council, provided:

- (a) twenty four hours-notice of the cancellation of the meeting is given; and
- (b) that the reason for cancellation is given.

Chairs, or Vice-Chairs in the Chair's absence, of the relevant committee can postpone, re-arrange or cancel meetings of a committee. A meeting of the Council or its committees or sub-committees may not be cancelled or postponed after the meeting has been duly convened.

## **3. Inclusion of Group Leader Role Profiles within the Constitution**

At the Constitution and Members' Development Committee held on 4 February 2020, consideration was given to a draft Group Leader Role Profile, to provide clarity and guidance for political group leaders. Further work to develop the role profile of Group Leaders has been carried out and group leaders contacted for their comments, and the revised role profile is now submitted for endorsement by the Committee for inclusion within the Council's Constitution see appendix 1.

## **4. Replacement of Senior Management Chart**

The attached updated version of the Senior Management Chart should be inserted into the Constitution. (see appendix 2)

## **5. Key Decision Threshold**

In order to provide clarity, the amount of the key decision threshold, £150,000 taking into account the lifetime costs or savings of the project, has been included within the Constitution, for clarification purposes.

### **What decision(s) are being asked for?**

- 8. To endorse the above proposals in readiness for submission full Council approve and update the Constitution as follows:

## **Other potential decisions and why these have not been recommended**

9. That no action be taken in respect of the proposed amendments. This would result in the Constitution becoming out of date and not compliant/compatible with appropriate legislation or standard procedures.

## **Impact(s) of recommended decision(s)**

### ***Legal***

10. As per Section 37(1) of the Local Government Act 2000, a local authority which are operating executive arrangements or alternative arrangements must prepare and keep up to date a document (referred to in the section as their constitution) which contains prescribed information.

The changes suggested within this report are therefore in compliance with the above by way of keeping the constitution up to date.

### ***Financial***

11. There are no budgetary implications.

### ***Policy Framework***

12. Not applicable. The report does not propose an amendment to the policy framework.

### ***Equality and Diversity***

13. There are no equality or diversity impacts.

### ***Risk***

14. If the Council does not have adequate governance processes in place to ensure that it complies with all relevant legislation, it could result in a breach in governance requirements leading to (depending on the seriousness of the breach) fines, reputational damage, government intervention alongside failure to deliver organisational priorities.

## **Actions to be taken to implement the decision(s)**

15. The Monitoring Officer will ensure that the changes outlined within the report are made to the Constitution.

## **GROUP LEADER ROLE PROFILE**

The Elected mayor is the first citizen of the Town, however the Council recognises the key leadership role played by the leaders of all political groups on the Council and the importance of their commitment to cross-party working.

### **Role and Responsibilities**

- 1 To provide the leadership of a political group providing formal effective, positive and constructive opposition to the Council's Mayor, majority party, and opposition, including the scrutiny of the political administration and policies of the Council.
- 2 When in Opposition, to provide credible checks and balances, challenges and alternatives to the ruling Political Group.
- 3 To liaise with other local and regional representatives of the party.
- 4 To monitor the performance of the Council against its budget, policy and performance plan
- 5 Notwithstanding Political differences promote Middlesbrough as a place and Middlesbrough Council, encouraging group Members act in a similar manner.
- 6 To canvass a range of views within the Group in the formulation of policy
- 7 To be the principal political spokesperson for the political group.
- 8 Advise the Mayor of the Council of the group's position on issues.
- 9 To represent the views of his/her Group in relation to any matter on which Officers seek consultation and guidance.
- 10 To encourage the highest standards of conduct by members of the group and promote compliance with the Members Code of Conduct.
- 11 To ensure the Monitoring Officer /Head of Democratic Services are advised of the wishes of the group in relation any amendments to group membership, nominations to serve on Committees or working groups, outside bodies and to advise of substitutes etc.
- 12 To allocate other responsibilities to group members as appropriate.
- 13 Represent the group on relevant formal and informal working groups.
- 14 To assist in ensuring appropriate levels of attendance are maintained by group members.

- 15 Promote effective communication between party group members, other political groups and officers and ensure that communications are conducted in a courteous and respectful manner and ensuring group members do the same.
- 16 To establish and maintain effective working relationships with, Chief Officers and other senior officers and to meet them regularly in order to keep fully appraised of relevant service issues.
- 17 To encourage a culture of learning and development among members, including the active participation of group members in briefings, seminars and other learning and development processes.

**Chief Executive**



**Tony Parkinson**

**Environment and Community  
Services**



**Geoff Field**

**Regeneration and Culture**



**Richard Horniman**

**Finance**



**Ian Wright**

**Adult Social Care and Health  
Integration**



**Erik Scollay**

**Legal and Governance  
Services**



**Charlotte Benjamin**

**Children's Services**



**Sue Butcher**

**Public Health**



**Mark Adams**

**Children's Care**



**Rachel Farnham**

**Education and Partnerships**



**Rob Brown**

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