

CONSTITUTION AND MEMBERS' DEVELOPMENT COMMITTEE

<p>Date: Friday 13th May, 2022 Time: 3.00 pm Venue: Mandela Room</p>

AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes Constitution and Members' Development Committee - 4 March 2022 3 - 6
4. Member Development - Sylvia Reynolds Head of Democratic Services 7 - 24
5. Review of the format of the Constitution - Andrew Glover, Head of Marketing and Communications
Item for Discussion
6. Constitution Update Report - Charlotte Benjamin, Director of Legal and Governance Services, Monitoring Officer 25 - 52
7. Executive Member Reports
Item for discussion
8. Holding of Multiple Chairs positions
Item for discussion

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

CONSTITUTION AND MEMBERS' DEVELOPMENT COMMITTEE

A meeting of the Constitution and Members' Development Committee was held on Friday 4 March 2022.

PRESENT: Councillors , A Bell (Vice-Chair), B Cooper, A Hellaoui, D Rooney, M Storey and J Thompson

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

APOLOGIES FOR ABSENCE: Councillors J Hobson, B Hubbard, M Saunders and C Wright

17 **DECLARATIONS OF INTEREST**

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

18 **MINUTES CONSTITUTION AND MEMBERS' DEVELOPMENT COMMITTEE - 10 DECEMBER 2021**

The minutes of the Constitution and Members' Development Committee held on 10 December 2021 were approved as an accurate record.

19 **VERBAL UPDATE - REVIEW OF CONSTITUTION**

The Head of Marketing and Communications attended the meeting and provided a verbal update to members on the review of the Constitution.

The Committee heard that the Head of Marketing and Communications had been asked by Democratic Services to review the Constitution to see if it could be presented in a different way and to make it easier to understand. The Committee heard that while some of the language used in the Constitution needed to be legally watertight, other sections could be made simpler to understand.

The Head of Marketing and Communications suggested that a potential approach would be to focus on the first 40 pages of the Constitution it was advised that this could be a summary or introduction to the Constitution. In summary it would be "What the Council does and how it works". This section would focus on the roles and structures of the Council as well as the rights of residents.

Members were advised that plain English would be used throughout with a maximum of 15 words per sentence. The aim would be for the text to be understandable by a 14 year old. The Head of Marketing and Communications suggested that the finished product would be approximately 4 pages long with imagery.

The review of the full Constitution would be a longer a piece of work and would require a clear approval process before coming back to Committee. The Head of Marketing and Communications stated that the summary document could be used as a tool to promote involvement with the democratic process which would be a useful tool with the upcoming elections in May 2023.

Members agreed that the proposals were a positive step and agreed with the plain English approach. The Head of Democratic Services stated that the links contained in the Constitution would also be reviewed as part of the review process and that best practice from other Local Authorities would be taken into account when reviewing the Constitution.

AGREED as follows:-

The Head of Marketing and Communications would produce a draft summary to present at the next meeting of the Constitution and Members' Development Committee.

CONSTITUTION UPDATE

The Head of 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.
1. 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 had 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.

The Committee requested that the following amendments be made to the Group Leader role profiles:

- Point 1 – the make-up of Middlesbrough Council to be expanded
- Point 3 – To liaise with other local and regional representatives of the party to be changed to:
 - To liaise with other local and regional representatives as appropriate.
- Point 8 – To advise the Mayor and Council of the group's position on issues to be expanded to include presenting alternative suggestions regarding policy/procedure

4. Replacement of Senior Management Chart

The updated version of the Senior Management Chart should be inserted into the Constitution.

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, had been included within the Constitution, for clarification purposes.

AGREED as follows:-

- a) That the 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**, be approved and referred to full Council
- b) That the change of wording for the Cancellation of Meetings be amended to include **Once the proper officer has given notice and summons of a meeting**, be approved and referred to full Council
- c) That the inclusion of Group Leader Role Profiles be amended and circulated to the Committee prior to being referred to full Council for inclusion in the Constitution.
- d) That the updated version of the Senior Management Chart should be inserted into the Constitution.
- e) 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, had been included within the Constitution, for clarification purposes.

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MIDDLESBROUGH COUNCIL	
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Report of:	Head of Democratic Services – Sylvia Reynolds
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Submitted to:	Constitution and Members Development Committee
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Date:	13 May 2022
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Title:	Update – Member Development Programme
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Report for:	Information
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Status:	Public
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Strategic priority:	All
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Key decision:	No
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Why:	Not applicable
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Urgent:	No
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Why:	Not applicable
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Executive summary
<p>Member Development is considered to be essential in providing support, knowledge and guidance to Members, both new and experienced.</p> <ol style="list-style-type: none"> 1. Members are asked to note the training sessions held, in particular those that have helped facilitate the move to virtual meetings and information sharing, and the successful use of virtual platforms to deliver Member training sessions as part of the Member Development Programme for 2021/22. (Appendix 1) 1. Members are asked to note the proposed Member Development Programme (Appendix 2) for 2022/23 and propose any additional training that would be considered beneficial to Elected Members. 3. Members are asked to consider if the attached Member Induction Programme (appendix 3) is still relevant or requires any additions or amendments.

Purpose

4. To provide the committee with an outline of the 2021/22 Member development programme and to seek feedback and recommendations on the 2022/23 Member Development programme and consider the content of the Member Induction Programme that will be delivered following the all-out local elections in May 2023.

Background and relevant information

5. Member Development is considered to be essential in providing support, knowledge and guidance to Members, both new and experienced, however the pandemic introduced a number of challenges for members and officers and introduced a number of new ways of working which the Member Development Programme supported.
6. A number of training sessions are mandatory for all Members, whilst others are mandatory for those Members joining certain committees (such as planning and licensing).
7. Despite the events of the last year due to Covid, Member Development was able to continue due to holding training and briefing sessions online.
8. During the pandemic there was the significant use of virtual meetings being conducted via Webex and MS Teams. The Council has maintained the use of virtual meetings for some none decision making meetings and as such Democratic Services have developed training materials and videos, as well as delivering tailored training sessions for committee and individual members. Not only did this ensure Council business could be conducted in order to meet the needs of the community, but it allowed for Member Development to be delivered virtually
9. Also during 2021/22 two new members were elected. An induction programme was provided for these new Members, as well as mandatory training for all Members covering the Council Code of Conduct. Specific mandatory training for new Committee Members was also arranged covering Planning and Licensing and other specific committees.
7. The Modern.Gov Committee Management System was introduced in 2021 and provides the opportunity for members in the form of the Modern.Gov App, to view, annotate and download meeting papers. Councillors are also able to identify the committees that they are interested in and receive automatic updates when new information is published for them. Training on the Modern.Gov App (covering access, registration and use of the App), was delivered to members early in 2021 via several methods;
 - i. One to One training (delivered by political assistants where available)
 - ii. Virtual via WebEx (no more than 5 participants in each session)
 - iii. Physical training session (no more than 5 participants in each session).
8. An e-learning programme for Elected Members on General Data Protection Regulations (GDPR) and Cyber Security was also developed with 24 Members having undertaken the training thus far. This training is mandatory for all Elected Members to complete.

9. Further development sessions had been held throughout the year, these included Member Briefing sessions, which had been arranged in response to events as they occurred.
10. A full list of dates, sessions and attendance are contained in Appendix 1.
11. Attendance at training varied depending on the training course. Mandatory training and training that was related to specific committees was very well attended. However attendance at some of the other training courses was quite poor. This could be down to the timings of the training or interest in the particular topic. It is proposed to try to hold future training session during working hours and also early evening whenever possible to encourage more Elected Members to attend.
12. The Committee are asked to consider the initial Member Development Programme for 2022-23 (attached at Appendix 2). This will be further developed and Members are encouraged to provide their own ideas and suggestions for training throughout the year.

Elected Member Inductions

13. All newly elected (and re-elected Members) are offered a comprehensive Induction Programme which covers the basic areas of knowledge necessary to newly elected Councillors. The Programme provides information on:
 - how the Council works (i.e. it's governance/decision making);
 - priorities including the Mayor's Vision;
 - Safeguarding;
 - Corporate parenting responsibilities;
 - School Improvement Plans (optional);
 - use of social media and a communications tool;
 - the legal requirements, roles and responsibilities of Members;
 - Codes of conduct, protocols and requirements in respect of ethics and probity; and
 - services delivered by the Council.
16. Members are asked to consider if the attached Member Induction Programme (Appendix 3) is still relevant or requires any additions.

What decision(s) are being recommended?

17. That the Constitution and Members' Development Committee note:
 - a) The training provided to Elected Members during 2021/22
 - b) The proposed Member Development Programme for 2022/23
18. That Members consider if the Member Induction Programme requires any amendment

Rationale for the recommended decision(s)

19. To provide Members with the appropriate skills and knowledge to fulfil their role as an elected member.

Other potential decision(s) and why these have not been recommended

20. Do nothing. If this option was selected the Members would not have the appropriate training and knowledge to enable them to fulfil their role as a Councillor.

Impact(s) of the recommended decision(s)

Legal

21. There are no legal implications arising from the content of this report

Strategic priorities and risks

22. The relevant risks this decision would influence are cited below, with an explanation as to why they are relevant and how it would affect each risk.

Risk No	Risk Description	Impact
O8-054	Failure to adhere to Local Code of Corporate Governance and deliver governance improvements outlined in the Annual Governance Statement.	By providing the appropriate training for members in terms of decision making and representing the community, the Council is demonstrating that good governance is in place and so this would have a positive impact on this risk.

Human Rights, Equality and Data Protection

23. The subject of this report is not a policy, strategy, function or service that is new or being revised. It is considered that an equality impact assessment is not required.

Financial

24. There are no financial implications or impact on any budgets or the Medium Term Financial Plan (MTFP) arising from the content of this report.

Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline
Implement the Member Development Programme		

Appendices

1	Member Development Programme 2021/22
2	Member Development Programme 2022/23
3	Member Induction Programme

Background papers/

Body	Report title	Date

Contact: Sylvia Reynolds

Email: Sylvia_reynolds@middlesbrough.gov.uk

MEMBER DEVELOPMENT PROGRAMME 2021/22 – LIVE DOCUMENT

Member Development and Training opportunities are generally open to all Members to attend. 'Required' events are ran on an annual basis aimed specifically at committee members (and substitutes), to ensure any regulatory requirements are adhered to, although other relevant optional modules may occur throughout the year. Ad hoc 1-1 training will be delivered where changes to committees change throughout.

REQUIRED TRAINING

TOPIC	Link Skills Framework	REASON	Attendees	Notes	Total Attendance
Planning & Development Committee	Regulating and Monitoring	Required Training	Planning & Development Committee Members & subs	COMPLETED - 27 May 2021	16
Licensing Committee – Taxis	Regulating and Monitoring Political Understanding	Required Training	Licensing Committee Members & subs	COMPLETED - 14 June 2021	21
Teesside Pension Fund	Regulatory and Monitoring	Required Training	Teesside Pension Fund Members & subs	COMPLETED - 17 June 2021	11
Corporate Affairs and Audit Committee	Regulating and Monitoring Scrutiny and challenge Political Understanding	Required Training	Corporate Affairs and Audit Committee Members & subs	COMPLETED - 24 June 2021	18
Staff Appeals Training	Regulatory and Monitoring	Required Training	Staff Appeals Committee Members & subs	COMPLETED - 29 June 2021	8
Standards Committee	Regulating and Monitoring Political Understanding	Required Training	Standards Committee Members & subs	3 May 2022	15

TOPIC	Link Skills Framework	REASON	Attendees	Notes	Total Attendance
Chairing Skills Advanced	Regulatory and Monitoring Political Understanding Partnership working	Required Training Skills Framework	Chairs & Vice Chairs	COMPLETED 1 February 2022	10
Media Skills		Required Training Skills Framework	Senior Members	FEB 22	4
GDPR	Regulatory and Monitoring Political Understanding	Required Training Skills Framework	All Members	E LEARNING	23 Completed 1 in progress

SENIOR MEMBER TRAINING

TOPIC	Link Skills Framework	REASON	Attendees	Notes	Total Attendance
Communication and Media Political Leadership Masterclass	Communication & Local Leadership	Executive Members Training	Mayor /Executive Members	COMPLETED- 9 July 2021 26 November 2021 Virtual	3
Leadership Essentials – Finance	Regulatory and Monitoring Political Understanding	Skills Framework	Executive Member for Finance	COMPLETED- 18-19 September 2021 14-15 October 2021 6-7 November 2021	1
Leadership Essentials – Children’s Services	Regulatory and Monitoring	Skills Framework	Executive Member for Children’s and	COMPLETED- 21-22 October 2021	2

TOPIC	Link Skills Framework	REASON	Attendees	Notes	Total Attendance
	Political Understanding		Children's Scrutiny Panel Chairs Chair of Corporate Parenting Board	20-21 November 2021 – Virtual 13-14 January 22 – Virtual	
Leadership Essentials Being an Effective Cabinet Member	Regulatory and Monitoring Local Leadership, Challenge Political Understanding	Skills Framework	Executive Members	COMPLETED- 15-16 July 2021 14-15 October 2021 26-27 February 2022	2
Border to Coast Annual Conference.	Regulatory and Monitoring	Skills Framework	Chair/Members of Teesside Pension Fund	COMPLETED- 29 September – 1 st October, Leeds	3

TOPIC	Link Skills Framework	REASON	Attendees	Notes	Total Attendance
Strategic thinking, planning and Implementation	Regulatory and Monitoring Local Leadership, Challenge Political Understanding	Skills Framework	Executive Members	COMPLETED 07 January 2021 delivered by EQV	4
Border to Coast Chairs Funding Conference	Regulatory and Monitoring	Skills Framework	Chair of Teesside Pension Fund Committee	COMPLETED- 22 November 2021, Leeds	1
Conducting and Chairing Successful Meetings	Regulatory and Monitoring Local Leadership, Challenge Political Understanding	Skills Framework	Executive Members Chair of OSB Chair Children's Scrutiny x2, Chair Corporate Parenting	COMPLETED 14 January 2022 delivered by EQV	4
Leadership Essentials – Political Leadership – A Whole Council Approach to Children's Services	Regulatory and Monitoring Local Leadership, Challenge Political Understanding	Skills Framework	Executive Members Chair of OSB, Chair Children's Scrutiny	COMPLETED - 10 February 2022	1

TOPIC	Link Skills Framework	REASON	Attendees	Notes	Total Attendance
Speed Reading on Electronic Devices	Regulatory and Monitoring Local Leadership, Challenge Political Understanding	Skills Framework	Executive Members	COMPLETED – 13 January 2022 delivered by EQV	5
Objection Handling and Managing Conflict	Regulatory and Monitoring Local Leadership, Challenge Political Understanding	Skills Framework	Executive Members	COMPLETED 10 March 2022 delivered by EQV	4
Confident Public Speaking	Local Leadership,	Skills Framework	Executive Members, Chairs/Vice Chairs	COMPLETED 9 January 2022	9
Communication & Interpersonal Skills	Local Leadership,	Skills Framework	Executive Members, Chairs/Vice Chairs	COMPLETED 24 February 2022	6
Risk Management	Local Leadership	Skills Framework	Executive Members	TBA	-

SCRUTINY TRAINING

TOPIC	Link Skills Framework	REASON	Attendees	Notes	Total Attendance
Scrutiny Workshop	Scrutiny and challenge Political understanding Partnership working	Skills Framework	Chairs and Vice Chairs	COMPLETED - 15 June 2021	19
Scrutiny Questioning Skills	Scrutiny and challenge Political understanding Partnership working	Skills Framework	All Scrutiny Members	COMPLETED - 6 July 2021	
Scrutiny Chairing Skills	Scrutiny and challenge Political understanding Partnership working	Skills Framework	Chairs and Vice Chairs	COMPLETED- 18 November 2021	

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GENERAL MEMBER TRAINING

TOPIC	Link Skills Framework	REASON	Attendees	Notes	Total Attendance
Social Media Training	Communication Local Leadership	Skills Framework	All Members	COMPLETED - 17 May 2021	7
Motions – Micro session	Regulatory and Monitoring Political Understanding	Skills Framework	All Members	COMPLETED - 19 August 2021	9
Interests – Micro session	Regulatory and Monitoring Political Understanding	Skills Framework	All Members	COMPLETED- 23 September 2021	7

Member & Officer Development Session – Codes of Conduct	Regulating and Monitoring Political Understanding Leadership	Skills Framework	All Members	COMPLETED- 27 September 2021	21
Personal Safety for Councillors		Member Training	All Members	COMPLETED 11 November 2021	11
Speed Reading on electronic devices	Regulatory and Monitoring	Skills Framework	All Members	COMPLETED January 13 2022	5
Anti Racism Training			All Members	COMPLETED 14 th & 22 March 2022	28

MEMBER BRIEFING SESSIONS

TOPIC	Link Skills Framework	REASON	Attendees	Notes	Total Attendance
PCC & TVCA Election Update	Regulatory and Monitoring	Skills Framework	All Members	COMPLETED 14 th April 2021	19
City Fibre Briefing	Regulatory and Monitoring	Skills Framework	All Members	COMPLETED - 10 th & 14 th May 2021	7
Dementia Awareness	Regulatory and Monitoring	Skills Framework	All Members	COMPLETED - 16 June 2021	16
Parliamentary Boundary Review	Regulatory and Monitoring	Skills Framework	All Members	COMPLETED - 30 th June 2021	19
Our Values	Regulatory and Monitoring	Skills Framework	All Members	COMPLETED - 6 July 2021 & 14 July 2021	21
New Middlesbrough Council Website	Regulatory and Monitoring	Skills Framework	All Members	COMPLETED- 22 nd September 2021	11
Flexible Use of Capital Receipts Strategy	Regulatory and Monitoring	Skills Framework	All Members	COMPLETED 13 October 2021	11
Budget	Regulatory and Monitoring	Skills Framework	All Members	COMPLETED 22 November 2021	12
Budget	Regulatory and Monitoring	Skills Framework	All Members	COMPLETED 16 February 2022	17

MEMBERS' INDUCTION

Whilst inductions are aimed at newly elected Councillors all Councillors are also invited to attend

SESSION	DATE/ TIME	TIMINGS	Lead Officer	Venue
		1 HR	Sylvia Reynolds	
Official Photo Shoot			Communications	
Signing of Declarations of Office			Charlotte Benjamin	
SESSION 1: BASIC STARTER TOOLKIT		2 HRS		
Welcome & Intro			Chief Exec/Mayor	
Role of Councillors Key Contacts Members/Democratic Support Member Development: Dealing with Constituents			Sylvia Reynolds	
SESSION 2: MAPPING THE COUNCIL		2HRS		
Governance Arrangements: <ul style="list-style-type: none"> • Political structures and roles of the Mayor, Committees, Council and Executive. • Officer organisational structure (includes LMT) what they do and how it all fits together. <ul style="list-style-type: none"> • Corporate Governance 			Sylvia Reynolds	
SESSION 3: THE CONSTITUTION		2 HRS	Charlotte Benjamin	
<ul style="list-style-type: none"> • Council procedure rules • Executive functions • Codes of conduct • Decision making 				

SESSION	DATE/ TIME	TIMINGS	Lead Officer	Venue
FURTHER SESSIONS: PRESENTATIONS BY DIRECTORATES:				
Environment & Community Services			Geoff Field	
Children's Services			Sue Butcher	
Finance			Ian Wright	
Adult Social Care and Health Integration			Erik Scollay	
Joint public Health Service – South Tees			Mark Adams	
Regeneration and Culture			Richard Horniman	
Legal and Governance Services			Charlotte Benjamin	

MEMBERS' INDUCTION

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SESSION	DATE/ TIME	TIMINGS	Lead Officer	Venue
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SESSION 1: BASIC STARTER TOOLKIT		2 HRS		
Welcome & Intro			Chief Exec/Mayor	
Role of Councillors Key Contacts Members/Democratic Support Member Development: Dealing with Constituents			Sylvia Reynolds	
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Finance			Ian Wright	
Adult Social Care and Health Integration			Erik Scollay	
Joint public Health Service – South Tees			Mark Adams	
Regeneration and Culture			Richard Horniman	
Legal and Governance Services			Charlotte Benjamin	

MIDDLESBROUGH COUNCIL	
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Report of:	Monitoring Officer and Director of Legal and Governance Services
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Submitted to:	Constitution and Members Development Committee
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Date:	13 May 2022
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Title:	Update – Council Constitution
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Report for:	Discussion
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Status:	Public
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Strategic priority:	All
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Key decision:	No
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Why:	Not applicable
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Urgent:	No
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Why:	Not applicable
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Executive summary

1. 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.

2. Article 4 – The Full Council, paragraph 4.2 (a) of the Constitution 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.

Purpose

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.

Background and relevant information

2. 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
3. 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.
4. 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.

The following amendments to the Council Procedure Rules are proposed under paragraph (c) above.

Standards Committee – Changes to the Terms of Reference

Terms of Reference - Standards Committee

Restrictions: Cannot include the Elected Mayor or Executive Leader and may not be chaired by an Executive Member

1. To make reports or recommendations to the Council in relation to:-
 - the approval by the Council of local codes of conduct for Members and officers, codes of practice, standing orders and protocols, taking account of national models and guidance or case tribunals.
 - the implementation of local codes of conduct etc, and the dissemination throughout the Authority of information and guidance on their operation.
 - consideration of any reports relating to the conduct of Members or officers which may be referred to it by the Council's Chair, Monitoring Officer or by the Chief Finance Officer under section 114 of the Local Government Finance Act 1988 in consultation with the Monitoring Officer, including

issues relating to Members' and officers' interests and the maintenance and management of any relevant registers of interests.

- consideration of relevant reports referred by the Monitoring Officer and Chief Finance Officer and make recommendations thereon to the Council as necessary.
2. Grant dispensations to Councillors, Co-opted Members and Parish Council Members from the requirements relating to declarations of interest as set out in Section 32 of the Localism Act 2011. **The Monitoring Officer may grant a dispensation where the matter is urgent and report it to the next available Standards Committee.**
 3. The determination, following an investigation, of allegations of breaches of Members' Codes of Conduct within such statutory provisions or guidance as may exist **and the imposing of any relevant sanctions.**
 4. Discharge of all of the above functions required by the Localism Act 2011 in relation to Parish Councils.

Revision of the Access to Information Procedure Rules

5. It is some years since the Access to Information Procedure Rules have been revised. A copy of the suggested revised version of the Access to Information Procedure Rules is attached at Appendix 1.

Substitutions

6. Following a request from the Chair of the Corporate Affairs and Audit Committee the committee are asked to consider a proposed amendment to the required notification period from 24 hours before the meeting as it currently appears in the Constitution to 3 hours before the meeting. This is a locally determined matter and therefore within the purview of the Council to amend. The Committee are therefore invited to discuss the proposal before making recommendations to Council

Background and relevant information

7. Concerns were raised about the timescale the Council has currently identified within the Constitution for political groups / members to notify the Monitoring Officer of a members substitution. It was felt that the rigidity of the 24 hour notification period currently set out in the Council's standing orders and the late notification of apologies from committee members could have a detrimental impact and result in meetings being inquorate. This could also result in reputational damage to the local authority as well as result in a great deal of officer/partner time and resources being wasted.
8. Committee Membership substitution is a process which has been adopted nationally and it allows members more flexibility in relation to attending meetings and helps underpin the statutory requirement of political proportionality in meetings.
9. A substitute must be identified by name as replacing a primary member before a meeting takes place.

10. Substitute members have all the powers and duties of any primary ordinary member of the committee but cannot exercise any special powers or duties exercisable by the person they are substituting (e.g. they cannot act as Chair of a committee if they are substituting for a member who is the Chair).
11. The law does not permit the use of a formal substitution process for the Executive.
12. Generally there two ways for approving substitutions to committee membership;
 - i. Delegation to an officer to approve substitution on the instructions of the groups concerned on an 'as and when' basis. Middlesbrough has adopted this process and has a locally agreed notification period. The disadvantages of this method is that it encourages last-minute changes, with Members being appointed who have no prior knowledge of the work of the Committee.
 - ii. Council appoints substitutes. When primary members are appointed to committees (usually at the annual meeting of the council), a small number of additional councillors can be appointed in addition to act as substitute member. This method has the advantage of certainty in that the substitute membership is well publicised in advance so that the members concerned can build up some knowledge and expertise in the subject area of their particular committee and attend relevant training, but lacks the flexibility of the above.
13. Middlesbrough has adopted a notification period of 24 hours which was set in line with professional guidance (Knowles on Local Authority Meetings) to allow time for substitute members to receive and digest the content of the agenda and reports (some of which can be complex), formulate questions and to undertake any necessary training.
14. However over the last 3 months we have received a number of short notice apologies (either the day before the meeting or the day of the meeting), which has had the potential to impact on the quorum of a number of committee meetings. It is not clear as to whether attendance is being affected by the pandemic or members personal circumstances as reasons for none attendance are not always provided in the notification.
15. Where a committee member is not able to attend, the onus is on that member to arrange a substitute or to seek assistance from a Political Assistant, where appropriate. However, again, it is not clear why a substitute has not been nominated as this information is not always provided, but may be impacted due to the lack of availability of other group members or the 24 hour required notice period.
16. Therefore members are asked to consider the issues raised and discuss the possible options which may include balancing the quorum of the meeting, which is legally required for the meeting to take place, and the equal importance of good governance and sound decision making by ensuring members have enough time to

receive, read and digest all the reports on the agenda and receive any necessary training prior to the meeting taking place. This enables substitutes to fully participate effectively in the meeting.

17. Other options may include providing different timescales for the submission of apologies for different types of meetings e.g. non-decision making meetings/ regulatory meetings/meetings where mandatory training is required.
18. Members also have a duty to ensure that any decision making is in line with the Council's corporate governance requirements and decision making principles and ensure that the public can be confident that decisions are sound and have received the appropriate consideration of all members.

Principles of decision making

19. All decisions of the Council will be made in accordance with the following principles:
 - a) proportionality (i.e. the action must be proportionate to the desired outcome);
 - b) due consultation and the taking of professional advice from officers;
 - c) respect for human rights (see below for further details);
 - d) a presumption in favour of openness;
 - e) clarity of aims and desired outcomes;
 - f) a need to explain what options were considered and giving the reasons for the decision.
20. This is especially critical for those in decision making committees, where decision could be subject to challenge through an appeal mechanism or judicial review.
21. If members decided to change the rules regarding notice of substitutions, the Council Procedure Rules would need to be amended to reflect the changes.

What decision(s) are being recommended?

22. That Council approve the following:
 - (a) 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.
 - (b) That the Monitoring Officer, under delegated powers be authorised to amend the Constitution and 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.

Rationale for the recommended decision(s)

23. The Constitution is a live document and requires constant updating to ensure that it is compliant/compatible with appropriate legislation or standard procedures.

Other potential decision(s) and why these have not been recommended

24. Do nothing. This would result in the Constitution becoming out of date and not compliant/compatible with appropriate legislation or standard procedures.

Impact(s) of the recommended decision(s)

Legal

25. *As per Section 37(1) of the Local Government Act 2000, a local authority 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.

Strategic priorities and risks

26. The relevant risks this decision would influence are cited below, with an explanation as to why they are relevant and how it would affect each risk.

Risk No	Risk Description	Impact
O8-055	If the Council doesn't respond effectively and efficiently to legislative changes it could be in breach of statutory duties in relation to service delivery and fail to make the most of opportunities.	The Council are obliged to comply with any new legislation or guidance. The Constitution is a live document which is updated continually to reflect any changes in legislation or guidance. The continual update of the Constitution has a positive impact on the Council fulfilling its statutory duties.

Human Rights, Equality and Data Protection

27. The subject of this report is not a policy, strategy, function or service that is new or being revised. It is considered that an equality impact assessment is not required.

Financial

28. There are no financial implications or impact on any budgets or the Medium Term Financial Plan (MTFP) arising from the content of this report.

Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline
Update the constitution	Monitoring Officer	31 May 2022

Appendices

1	Access to the Information Procedure Rules
2	
3	

Background papers

Body	Report title	Date

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Access to Information Procedure Rules

(Note: Where an * appears it denotes a statutory requirement)

1. SCOPE

- 1.1 These rules apply to all meetings of the Council, Overview and Scrutiny Board, area committees (if any), the Standards Committee and regulatory committees and public meetings of the Executive (together called meetings) and certain rules apply to the decisions of Individual Members and Officers.
- 1.2 The rules set out in this Section shall not apply to meetings of the Licensing Committee or sub-committees which shall be governed by Regulations made under Section 9 of the Licensing Act 2003 and any future rules determined by the Licensing Committee under that Section.
- 1.3 These rules also cover public rights of access to information, in relation to Council and Executive functions, and Members' rights of access to information.

2. ADDITIONAL RIGHTS TO INFORMATION

- 2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. RIGHTS OF THE PUBLIC TO ATTEND MEETINGS

- 3.1 Members of the public may attend all meetings, subject only to the exceptions in these rules.

4. NOTICES OF MEETING *

- 4.1 The Council will give at least five clear working days-notice of any meeting by posting details of the meeting on the public notice board inside the main reception of the Town Hall and on its website – www.middlesbrough.gov.uk.
- 4.2 Where it is necessary to hold a meeting in private and exclude the press and public in order to consider exempt or confidential information, notice of the intention to hold such a meeting will be published in the Forward Plan and the provisions of Rule 8 (access to agenda and reports before the meeting) will apply.

5. NOTICE OF PRIVATE MEETING OF THE EXECUTIVE *

- 5.1 Under the statutory instrument, the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, there is now a requirement for Local Authorities to give at least 28 clear days' notice of its intention to hold a meeting in private.
- 5.2 The Local Authority must:
 - (a) make available on the public notice board of the relevant local authority a notice of its intention to hold the meeting in private; and
 - (b) publish that notice on the local authority's website;

- (c) The notice must include the reasons as to why the meeting is to be held in private;
- (d) Where a date which a meeting must be held makes compliance with this regulation impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from the Chair of the Overview and Scrutiny Board, or where there is no such person, or the Chair of the Overview and Scrutiny Board is unable to act, agreement would be obtained from the Chair of the Council;
- (e) The Chair of the Overview and Scrutiny Board must be provided with a clear case as to why the meeting is urgent and cannot be reasonable deferred;
- (f) Once agreement has been sought, steps (a) – (c) must be followed;
- (g) Where the report contains confidential information as defined below the public must be excluded.
- (h) Members of the Executive or its committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency. The notice should set out the reasons for holding any part of the meeting in private, details of any representations received about why the meeting should be in public and the response to those representations.

6. ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE

6.1 Notice and Attendance

- (a) All members of the Executive will be served notice of all private meetings of the Executive or its committees, whether or not they are members of that committee.
- (b) All members of the Executive are entitled to attend a private meeting of any committee of the Executive.
- (c) Members other than Executive members will not be entitled to attend private meetings of the Executive, and its committees without the prior agreement of the Elected Mayor or Chair.

6.2 Officer Involvement

- (a) The Head of the Paid Service, the Chief Finance Officer, the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and its committees. The Executive may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place.
- (b) A private Executive meeting may only take place in the presence of the Proper Officer or their nominee with responsibility for recording and publicising the decisions

7 EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

7.1 The Executive will decide whether meetings relating to matters which are not key decisions will be held in public or private.

8. ACCESS TO AGENDA AND REPORTS BEFORE MEETING (EXCEPT FOR PRIVATE EXECUTIVE MEETINGS – SEE RULE 5) *

8.1 A summons to attend Council meetings will be emailed to members at least 5 clear working days before the meeting.

8.2 The Council will make copies of the agenda open to the public available for inspection at the main reception of the Town Hall and on its website www.middlesbrough.gov.uk not less than five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda.

8.3 The Council will make copies of the reports available on its website www.middlesbrough.gov.uk, and upon request to Democratic Services. Where reports are prepared after the agenda has been sent out, the Council shall make each such report available to the public, as above, as soon as the report is completed and sent to Councillors.

8.4 In respect of a meeting of the Executive, a committee of the Executive, or a meeting under joint arrangements in the course of the discharge of an executive function;

8.5 The Council will make available electronic copies of the agendas and reports to all members, as well as being made available on the Council website www.middlesbrough.gov.uk, unless the report is confidential or exempt (see para x) where it would only be made available to members of the Executive or the relevant committee, not less than five clear working days before the decision is taken.

9. SUPPLY OF COPIES *

9.1 The Council will make available for the use of members of the public present at meetings, a reasonable number of copies of the agenda and of those reports which are open to the public

9.2 The Council will supply copies of the following to any person on payment of a charge for copying and postage.

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Proper Officer thinks fit, copies of any other documents supplied to Members and the Elected Mayor in connection with an item to any person on payment of a charge for copying and postage.

Alternatively copies are available on the council website and can be downloaded free of charge:

Copies of documents supplied to members of the public, where the Council is the copyright holder, may be reproduced in any publically available medium.

10. ACCESS TO AGENDAS, REPORTS AND MINUTES AFTER MEETINGS*

10.1 The Council will publish on its website and make available hard copies of the following documents for six years after the date of a meeting:-

(a) the minutes of the meeting or, in the case of meetings of the Executive, records of decisions taken including the reasons for those decisions, excluding any part of the minutes, or record of decisions, when the meeting was not open to the public or which disclose exempt or confidential information;

(b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;

(c) the agenda for the meeting; and

(d) reports relating to items when the meeting was open to the public.

11. BACKGROUND PAPERS *

11.1 List of background papers

The relevant officer, usually the author, will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) which have been relied on to a material extent in preparing the report

This will exclude any published works or those which disclose exempt or confidential information (as defined in Rule 13) and/or in respect of reports to the Executive, the advice of a political advisor, or any draft report or document.

11.2 Public inspection of background papers

The Council will make available, on request, for public inspection for four years after the date of the formal committee meeting one copy of each of the documents on the list of background papers.

12. SUMMARY OF PUBLIC'S RIGHTS *

12.1 A written summary of the public's rights to attend meetings and to inspect and copy documents, as set out in these Rules, must be kept at and available to the public at the Council's principal offices. These Access to Information Procedure Rules constitute the written summary.

13. EXCLUSION OF ACCESS BY THE PUBLIC AND COUNCILLORS WHO ARE NOT MEMBERS OF A COMMITTEE TO MEETINGS *

13.1 Confidential information: requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. Likewise, public access to reports and background papers will also be excluded.

13.2 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information the disclosure of which to the public is prohibited by or under another Act or by Court Order.

13.3 Exempt information: discretion to exclude public

The public or councillors who are not a member of the committee **may** be excluded from meetings whenever it is likely in view of the nature of the business to be transacted that exempt information would be disclosed. Exempt information means information falling within the 7 categories outlined in 12A of the Local Government Act 1972 provided:

(a) the meeting resolves so to exclude the public or councillors who are not a member of the committee, and that resolution identifies the proceedings or part of the proceedings to which it applies, and

(b) that resolution states by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (as outlined in Rule 14 below), the description of the exempt information giving rise to the exclusion of the public, and

(c) that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In these circumstances, public access to reports, background papers and minutes will also be excluded. Such reports will be marked 'Not for publication' together with the category of information likely to be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

Once the decision to exclude the public has been made, the effect of passing of such a resolution is it removes the provision that the meeting is open to anyone but the membership of that committee and those persons expressly invited to attend. This decision includes Members of the Council who are not members of that committee. Each council will have its own protocol on how other members may or may not then be a party to that exempt discussion, but the law is clear that it does exclude any other member not part of that committee.

14. Meaning of exempt information

14.1 Exempt information means information falling within any of the categories set out in the following table, subject to the qualifications and interpretations in Parts 2 and 3 of Schedule 12A to the Local Government Act 1972 (as amended).

14.2 Information falling within any of paragraphs 1-7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission under regulation 3 of the Town and Country Planning General Regulations 1992.

Category	Condition
1. Information relating to any individual.	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <p>(a) where disclosure is prohibited by statute; or</p> <p>(b) where disclosure might involve providing personal information about individuals; or</p> <p>(c) where disclosure might breach a duty of confidentiality; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
2. Information which is likely to reveal the identity of an individual.	<p>Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <p>(a) where disclosure is prohibited by statute; or</p> <p>(b) where disclosure might involve providing personal information about individuals; or</p> <p>(c) where disclosure might breach a duty of confidentiality; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>

<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p>	<p>Information is only exempt if and for so long as:</p> <p>(a) disclosure of the amount involved would be likely to give advantage to a person entering into or seeking to enter into a contract with the Council in respect of property, goods or services whether the advantage would arise as against the Council or as against other persons; or</p> <p>(b) disclosure would prejudice the efficiency and effectiveness of the use of Council resources; or</p> <p>(c) disclosure of trade secrets and other information would, or would likely, prejudice the commercial interests of any person, including the Council; and</p> <p>(d) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.</p>	<p>Information is only exempt if and for so long as its disclosure to the public:</p> <p>(a) would prejudice the Council in those or any other consultations or negotiations in connection with a labour relations matter; and</p> <p>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>Information is only exempt:</p> <p>(a) where a claim of legal professional privilege could be maintained in legal proceedings e.g. correspondence such as legal advice and assistance between the Council's Legal Services and its client; and</p> <p>(b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>

Category	Condition
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>Information is exempt only if and so long as:</p> <p>(a) disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice order or direction is to be given or made; and</p> <p>(b) in all circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Information is only exempt if its disclosure would, or would be likely to, prejudice-</p> <p>(a) criminal investigations and proceedings; or</p> <p>(b) the apprehension or prosecution of offenders; or</p> <p>(c) the administration of justice; or</p> <p>(d) the assessment or collection of any tax or duty or of any imposition of a similar nature; or</p> <p>(e) regulatory enforcement; or</p> <p>(f) any civil proceedings; or</p> <p>(g) Health and safety; or</p> <p>(h) information obtained from confidential sources; and</p> <p>(i) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.</p>

Meaning of exempt information (health scrutiny)

Category	Condition
<p>1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, a relevant body.</p>	<p>Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.</p>
<p>2. Information relating to any particular occupier or former occupier of, or</p>	<p>Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.</p>

applicant for, accommodation provided by or at the expense of a relevant body.	
3. Information relating to any particular applicant for, or recipient or former recipient of, any service provided by a relevant body.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
4. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by a relevant body.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
5. The amount of any expenditure proposed to be incurred by a relevant body under any particular contract for the acquisition of property or the supply of goods and services.	Information is exempt if and so long as disclosure to the public of the amount there referred to would be likely to give an advantage to a person entering into, or seeking to enter into, a contract with a relevant body in respect of the property, goods or services, whether the advantage would arise as against that body or as against other such persons.
6. Any terms proposed or to be proposed by or to a relevant body in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.	Information is exempt if and so long as disclosure to the public of the terms would prejudice a relevant body in those or any other negotiations concerning the property or goods or services.
7. The identity of a relevant body (as well as of any other person, by virtue of paragraph 6 above) as the person offering any particular tender for a contract for the supply of goods or services.	
8. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between a relevant body or a Minister of the Crown and employees of, or office-holders under, a relevant body.	Information is exempt if and so long as disclosure to the public of the information would prejudice a relevant body in those or any other consultations or negotiations in connection with a labour relations matter arising as mentioned in that paragraph.
9. Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with: (a) any legal proceedings by or against a relevant body, or (b) the determination of any matter affecting a relevant body, (whether, in either case, proceedings have been commenced or are in contemplation).	
10. Information relating to a particular person who is or was formerly included in, or is an applicant for inclusion in, a list	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.

of persons undertaking to provide services under Part 2 of the 1977 Act prepared by a Health Authority.	
11. Information relating to a particular person who is or was providing services, or has made a request to a Health Authority to become a person providing services, under arrangements under section 28C of the 1977 Act.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
12. Information relating to a particular person who is or was formerly performing personal medical services or personal dental services in accordance with arrangements under section 28C of the 1977 Act.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
13. Information relating to any particular employee, former employee, or applicant to become an employee, of a person referred to in paragraph 10, 11 or 12.	Information is not exempt unless it relates to an individual of that description in the capacity indicated by the description.
14. Information relating to the physical or mental health of a particular individual.	

15. Disturbance

- 15.1 The public may also be excluded from meetings, where the meeting so resolves, in the exercise of a lawful power of exclusion in order to maintain orderly conduct or to prevent misbehaviour at a meeting.

16. ACCESS TO INFORMATION RULES TO THE EXECUTIVE *

- 16.1 Rules 17 – 31 apply to the Executive and its committees. If the Executive or its committees meet to take a key decision then it must also comply with Rules 1 – 13 unless Rule 21 (general exception) or Rule 22 (special urgency) apply.
- 16.2 If the Executive or its committees meet to discuss a key decision to be taken collectively, with an officer other than a mayoral/ political assistant present, within 28 days of the date according to the forward work programme by which it is to be decided, then it must also comply with Rules 1 – 13 unless Rule 21 (general exception) or Rule 22 (special urgency) apply.
- 16.3 A key decision is as defined in Article 12 Paragraph 12.3, of this Constitution.
- 16.4 This requirement does not include meetings, whose sole purpose is for officers to brief members.

17. PROCEDURE BEFORE TAKING KEY DECISIONS *

- 17.1 Subject to Rule 21 (general exception) and Rule 22 (special urgency), a key decision may not be taken unless:
- (a) a notice (called here a forward work programme) has been published

in connection with the matter in question;

- (b) A Key Decision must be published 28 days prior to the decision being taken on the Council's Forward Plan. Where the publication of intention to take a Key Decision is impractical, the Chair of the Overview and Scrutiny Board must be informed.
- (c) at least 5 clear days have elapsed since the publication of the forward plan; and
- (d) where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

18. THE FORWARD WORK PROGRAMME

18.1 Period of forward work programme

Forward plans will be prepared by the Elected Mayor to cover a period of at least four months, beginning with the first day of any month. The Forward Plan is a live document and published once any new Forward Plan item is added.

18.2 Contents of forward work programme.

The forward work programme will contain matters which The Elected Mayor has reason to believe will be subject of a key decision to be taken by the Executive, a committee of the Executive, individual members of the Executive, officers, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the work programme.

It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, their name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward work programme now also contains matters which are non-key, however there is no deadline for these decisions to be published on the Forward Plan.

Exempt information need not be included in a forward work programme and confidential information cannot be included.

18.3 Material relating to forthcoming business

(a) All Members are entitled to inspect any document which is in the possession or under the control of the Executive or its committees and contains material relating to any business to be transacted at a public meeting unless

- (i) it contains exempt information falling within Paragraphs 1, 2, 4, 5 and 7 of paragraph 12A set out above; or
- (ii) it contains exempt information falling within Paragraph 3 of Schedule 12A set out above to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
- (iii) it contains the advice of a political adviser or
- (iv) it is a draft report or draft background paper
- (v) it is not a report or a background paper as defined in these Rules

(b) All Members are entitled to inspect any document which is in the possession of or under the control of the Council and contains material relating to any business to be transacted at a meeting of the Council or any of its committees or sub-committees unless

- (i) it contains exempt information falling within Paragraphs 1, 2, 4, 5 and 7 of paragraph 12A set out above or
- (ii) it contains exempt information falling within Paragraph 3 of Schedule 12A set out above to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract.

19. Material relating to Key Decisions

19.1 All members will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its committees which relates to any key decision unless paragraph (a) or (b) above applies.

20. Nature of rights

20.1 These rights of a member are additional to any other right they may have.

21. GENERAL EXCEPTION *

21.1 If a matter which is likely to be a key decision has not been included in the forward work programme, then subject to Rule 22 (special urgency), the decision may still be taken if:

- a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward work programme;
- b) the Proper Officer has informed the Chair of the Overview and Scrutiny Board, or in their absence the Chair of the relevant scrutiny panel, or if neither is available, each member of that Board or panel in writing, by notice, of the matter to which the decision is to be made;
- c) the Proper Officer has made copies of that notice available to the public at the offices of the Council; and
- d) at least 5 clear days have elapsed since the Proper Officer complied with (a) and (b).

22. SPECIAL URGENCY *

22.1 If by virtue of the date by which a decision must be taken Rule 21 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Board or relevant scrutiny panel that the taking of the decision cannot be reasonably deferred. If there is no such Chair or if the Chair is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice Chair will suffice.

23. RECORDS OF DECISIONS TAKEN AT MEETINGS *

- 23.1 The Council will make available copies of the following to any person on payment of a charge for copying and postage for six years after a meeting.
- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all formal committee meetings, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
 - (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
 - (c) the agenda for the meeting; and
 - (d) reports relating to items when the meeting was open to the public.

Alternatively copies are available on the council website and can be downloaded free of charge:

23.2 Copies of documents supplied to members of the public, where the Council is the copyright holder, may be reproduced in any publically available medium.

24. REPORTS TO COUNCIL *

24.1 When the Overview and Scrutiny Board can require a report

If the Overview and Scrutiny Board or a scrutiny panel thinks that a key decision has been taken which was not:

- (a) included in the forward work programme; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with the Chair of the Overview and Scrutiny Board/panel, or the Chair or Vice Chair of the Council under Rule 16; the Board/panel may require the Executive to submit a report to the Council within such reasonable time as the Board/panel specifies. The power to require a report rests with the Board/panel, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Board/panel when so requested by the Chair or any 5 members. In respect of education matters this includes voting co-optees.

Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Board/panel.

24.2 Mayor's report to Council

The Elected Mayor may prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 working days of receipt of the written notice, or the resolution of the Board/panel, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision and if the Elected Mayor is of the opinion that it was not a key decision the reasons for that opinion.

24.3 Quarterly reports on special urgency decisions

In any event the Elected Mayor will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

The report will also contain details of urgent decisions taken in accordance with the Overview and Scrutiny Procedure Rules (Paragraph 8.10).

25. Records of decisions at Executive meetings

25.1 After any meeting of the Executive the proper officer will, as soon as practicable, produce a written statement which must include:

- (a) the name of the decision-making body and a date of the decision;
- (b) A record of every decision taken and the reasons for those decisions;
- (c) Details of any alternative options;
- (d) A record of any conflict of interest or Disclosable Pecuniary Interests declared by any member of the decision making body;

26. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE *

- 26.1 Where an individual Member of the Executive (a Portfolio Holder) intends to make a key decision, that decision must not be made unless it has been included in the Notice of Forthcoming Executive Decisions (see Rule 18 above) or the procedure set out in Rule 21 (general exception) or Rule 22 (special urgency) has been complied with.
- 26.2 A decision which is not a key decision may be taken without complying with the requirements in Rules 18, 21 or 22).
- 26.3 A Member of the Executive may only take an Executive Decision where s/he is authorised to do so in the Scheme of Delegations approved by the Mayor.
- 26.4 Reports intended to be taken into account** - Where an individual member of the Executive receives a report which they intend to take into account in making any key decision, then they will not make the decision until at least 5 clear days after receipt of that report.
- 26.5 As soon as practicable after an individual Member of the Executive has made an Executive decision, they must produce, or instruct the Proper Officer to produce, a written statement of that decision which must include the following information:-
- a record of the decision (including the date it was made)
 - a record of the reasons for the decision
 - details of any alternative options considered and rejected by the Member when making the decision
 - a record of any conflict of interest declared by the Member which relates to the decision; and
 - in respect of any declared conflict of interest a note of dispensation granted by the Chief Executive
- 26.6 A copy of any record produced in accordance with Rule 26.4 and any report considered by the Member which is relevant to the decision concerned must be made available for public inspection at the Council's offices and published on the Council's website as soon as reasonably practicable after the decision has been made.
- 26.7 Rule 26.5 does not authorise or require documents relating to the decision to be disclosed to the public where the documents contain confidential information or where, in the opinion of the Member making the decision, they disclose exempt information or the advice of a political assistant or adviser.

27. OVERVIEW AND SCRUTINY BOARDS ACCESS TO DOCUMENTS *

27.1 Rights to copies

Subject to Rule 27.2 below, the Overview and Scrutiny Board (including its panels) will be entitled to copies of any document which is in the possession or control of the Executive or its committees and which contains material relating to

- (a) any business transacted at a public or private meeting of the Executive

or its committees; or

- (b) any decision taken by an individual member of the Executive.
- (c) any Executive decision that has been made by an officer of the Council under their delegated powers.

The documents must be provided as soon as practicable but no later than 10 clear days after the request is received

27.2 Where the Monitoring Officer determines that Overview and Scrutiny boards are not entitled to a copy of the document that has been requested for the reasons set out above, the Executive must provide the relevant Scrutiny Committee with a written statement setting out the reasons for that decision.

28. Limit on rights

28.1 An Overview and Scrutiny Board will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political or mayoral assistant.

29. Records of Decisions Taken By Officers

29.1 As soon as reasonably practicable, but within 28 days, after a significant operational decision taken by an officer in relation to a Council function, the officer will produce a written record of the decision and arrange for its publication on the Council's website together with the report (if any) in relation to the decision made. The record will include:

- (a) a record of the decision including the date it was made;
- (b) A statement of the reasons for it;
- (c) Details of any alternative options considered and rejected by the officer at the time of making the decision; and
- (d) A record of any interest declared by an executive member consulted by the officer who made the decision together with a note of any dispensation granted in respect of that interest.

29.2 Where an Officer intends to take a key decision, the decision making process for Executive Key Decisions must be followed. The item should be placed on the Executive Forward Plan, 28 clear days before the decision is taken. The decision should be published within 48 hours of the decision being taken.

29.3 Rule 31.5 does not authorise or require documents relating to the decision to be disclosed to the public where the documents contain confidential information or where, in the opinion of the Officer making the decision, they disclose exempt information or the advice of a political assistant.

30. Inspection and supply of documents

- (a) Background papers that have been referred to within an Executive report must now be available for public inspection. These will be published on the Council's website at www.middlesbrough.gov.uk and a hard copy will be made available at the Town Hall reception.
- (b) Confidential background papers are excluded from the rule.

31. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS *

Documents relating to council and committee business

- 31.1 Subject to Rule 31.2 below, all Members of the Council are entitled to inspect any document which is in the possession or under the control of the Council and which contains material relating to any item of business to be dealt with at a meeting of the Council or a Committee or Sub- Committee.
- 31.2 Rule 31.1 above does not require any document to be open to inspection if it appears to the Proper Officer that it discloses exempt information, unless that information falls within one of the following categories:-
 - Information relating to the financial or business affairs of any particular person, including the Council, except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract
 - Information which reveals that the Council proposes:-
 - to give under any enactment a notice or by virtue of which requirements are imposed on a person
 - to make an order or direction under any enactment Documents relating to executive business
- 31.3 Subject to Rule 31.5 below, any Member of the Council is entitled to inspect any document which is in the possession or under the control of the Executive and which contains material relating to any business to be transacted at a public meeting of the Executive unless, subject to Rule 31.5, the Proper Officer considers that the document discloses exempt information. Such documents must be available for inspection for at least 5 clear days before the meeting concerned except that:
 - where the meeting is convened at shorter notice such a document must be available for inspection when the meeting is convened; and
 - where an item is added to the agenda at shorter notice, any document required to be available in relation to that item must be available when that item is added to the agenda.
- 31.4 Subject to Rule 31.5 below, all Members of the Council are entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to:-

- any business transacted at a private meeting
- any decision made by an individual Member in accordance with the Council's Executive arrangements; or
- any decision made by an Officer in accordance with the Council's Executive Arrangements

when the meeting concludes or, where an Executive decision has been made by an individual Member or an Officer, immediately after the decision has been made, and in any event within 24 hours of the conclusion of the meeting, or the decision being made, as the case may be, unless the Proper Officer considers (subject to Rule 31.5 below) that the document discloses exempt information.

31.5 Rules 31.3 and 31.4 do not prohibit Members from inspecting documents containing the following categories of exempt information:-

- Information relating to the financial or business affairs of any particular person, including the Council, except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract
- Information which reveals that the Council proposes:-
 - to give under any enactment a notice under or by virtue of which requirements are imposed on a person
 - to make an order or direction under any enactment

31.6 Nothing in Rules 31.3 to 31.5 above requires any document or a part of any document to be available for inspection if it contains the advice of a mayoral/political adviser.

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