

<b>Report of:</b>	Executive Member for Environment, Finance and Governance and Director of Legal and Governance Services
<b>Submitted to:</b>	Corporate Affairs and Audit Committee
<b>Date:</b>	28 April 2022
<b>Title:</b>	Update – Council’s Decision Making process
<b>Report for:</b>	Information
<b>Status:</b>	Public
<b>Strategic priority:</b>	All
<b>Key decision:</b>	No
<b>Why:</b>	Not applicable
<b>Urgent:</b>	No
<b>Why:</b>	Not applicable

**Executive summary**

The report provides an update in respect of the Council’s decision making process. It also highlights information in relation to any awareness/training that has been carried out in relation to the Decision Making process.

**Purpose**

1. To provide members with an update in relation to the Council’s decision making process.

**Background and relevant information**

2. The report is necessary so that members are regularly updated in respect of the decision making process and are assured the appropriate decision making processes are in place.
3. The Corporate Affairs and Audit Committee previously requested information in relation to:

- Details of current policies/guidance in place in respect of the Decision Making Process;
- Information on the number of member delegated decisions and their type (key/non key);
- Information on the number of officer delegated decisions taken; and
- Information on the activities of the governance team (communications, training/ awareness raising).

## **Update**

### **Council Constitution**

4. The Council's 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.
5. The Constitution is divided into 18 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the Constitution.
6. The Council's Constitution is a living document and is currently subject to review. The changes to the Constitution usually fall within three broad areas, which can be described as follows:-
  - Alterations made as a result of decisions of either the Council or the Executive.
  - Alterations made under the delegated powers given to the Monitoring Officer to deal with changes required as a result of legislative changes.
  - Alterations to improve the working of the Council or, to attempt to resolve ambiguities or amend typographical or drafting errors.
7. Any changes to the Constitution, other than those delegated to the Monitoring Officer, are first considered by the Constitution and Members Development Committee prior to being submitted to the full Council meeting for approval

### **Current policies/guidance in place in respect of the Decision Making Process**

8. Article 12 of the Constitution identifies the decision making principles of the Council and provides information in relation to what is a key decision and circumstances when they are not deemed key.
9. Council Procedure Rules – identify procedures for elected members in conducting meetings
10. Executive Procedure Rules – Identify functions which are the responsibility of the Executive and that may be exercised by the Elected Mayor. The Elected Mayor may also delegate authority to exercise those functions to the extent they wish.

11. The Forward Work plan is the vehicle for ensuring openness and transparency when key decisions are to be taken and for advising members and the public of decisions to be made by the Executive.
12. There is also an Executive decision making action tracker that allows actions arising from Executive decisions to be monitored for completion and assesses any risk associated with actions not being completed within the agreed timescales.
13. Overview and Scrutiny Procedure Rules – Sets out the functions of the Overview and Scrutiny Board and acts as the vehicle for hearing called in decisions.
14. The Officer Scheme of Delegation identifies powers delegated to officers, this is currently being updated.
15. Guidance for recording Officer Delegated decisions is contained on the Council's Intranet and decisions made within these parameters are published on the Council Website and an email notification is sent to all members
16. Financial Procedure Rules – The financial policies of the Council are set out in these regulations. They apply to every member and officer of the Authority and anyone acting on its behalf.
17. Separate financial regulations are to be issued in accordance with the Fair Funding Scheme which will apply to Governing Bodies, Head Teachers and staff of schools with delegated budgets. These will be appended to the Fair Funding Scheme document.
18. These regulations identify the financial responsibilities of:
  - The full Council;
  - The Executive;
  - Scrutiny committees;
  - Members;
  - The Head of Paid Service;
  - Monitoring Officer;
  - Chief Finance Officer; and
  - Executive Directors and Assistant Directors (in these regulations jointly referred to as “Other Chief Officers”).
19. The Council also has an Asset Disposal Policy which provides rules and guidance on the disposal of Council assets.

**Information on the activities of the governance team (communications, training/ awareness raising**

**Training**

20. Staff – Online materials are available on the intranet and the Middlesbrough Learns e-learning training portal. Members are also required to complete the mandatory General Data Protection Regulation (GDPR) training on the Middlesbrough Learns e-learning portal. It was agreed at the Constitution and Members' Development Committee on 10 February 2022, that all members should receive the GDPR training at least once during

their term of office, but further training would be delivered if there were any subsequent updates to the regulations.

21. A training programme has been implemented, in order to assist in mitigating some of the actions outlined in the Children's Improvement Plan. A list of training and briefing sessions held during the period 1 January 2021 and 31 December 2021 is attached at **Appendix C**.
22. Every Member who currently Chairs a Committee has now received the appropriate training to assist them in carrying out the duties required to be able to Chair a meeting effectively.
23. Work is ongoing with the Local Government Association to improve member/officer relations. In order to develop the relationship, a number of joint training sessions, facilitated by the LGA, have been held between Executive Members and the Leadership Management Team.
24. Given the increase in Standards complaints, a Micro session was held on 23 September 2021, for all Members, on Declaration/Register of Interests. In addition, training was provided for all Members on 27 September 2021, in relation to the requirements of the Members Code of Conduct, following the approval of a revised Members' Code of Conduct at Council on 28 July 2021
25. The Modern.Gov Committee Management System 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).

## **Information on the number of officer delegated decisions**

### **Gold Command Decisions**

26. Under the Civil Contingencies Act 2004 the Council has a legal duty (alongside other local partners) to plan for and deliver both a response to an emergency incident and the recovery from it. The Coronavirus Act 2020 created a number of new, and revised other, local authority powers and duties (principally regarding education, social care, volunteering, and death management) in order to better enable the response to the COVID-19 pandemic.
27. On 16 March, as a result of the Covid-19 pandemic, the Council invoked its Major Incident Plan with the response structure of the Gold, Silver and Bronze Command. Due to the nature of the event, the Council's business continuity decision structure was aligned with this structure.

28. The purpose of the Gold Command is to set strategy for the response and controls resources. The Chief Executive is Gold Commander and the group is comprised of the Leadership Team and the Head of Marketing and Communications, alongside the Mayor and Deputy Mayor of Middlesbrough.

29. The Council's Scheme of Delegation gives the Executive collective responsibility for corporate strategic performance and financial management / monitoring, together with associated action. A list of decisions taken by the Gold command group during the pandemic is attached at **Appendix D** to the report.

### **Officer Delegated Decisions**

30. The Officer Delegated Decision form was amended to ensure that officers include details of the specific delegation that allows them to take that decision. Democratic Services are then able to check the Officers Scheme of Delegation or the Council Constitution to ensure that the correct delegation is in place.

31. When an Officer Delegated decision is submitted via the Modern Gov Committee Management system, Democratic Services check the information entered on to the system to make sure that it has been entered correctly, the appropriate delegation is in place, check that there are no issues regarding confidentiality/release of exempt information and that a copy of the decision form is attached, prior to publishing the form.

### **Decisions made**

32. A report containing details of Officer Delegated Decisions taken during the period 1 January 2021 - 31 December 2021 is attached at **Appendix A**.

### **Information on the number of member delegated decisions and their type (key/non key)**

33. A report containing details of Executive decisions taken during the period 1 January 2021 - 31 December 2021 is attached at **Appendix B**.

### **Scrutiny and challenge**

34. From 1 January 2021 – 31 December 2021 there have been 104 Executive decisions. In the corresponding period, the Council did not receive any requests for call-in, in respect of any of the decisions taken during that period.

### **Decisions made**

35. **SPECIAL URGENT DECISIONS TAKEN IN THE PERIOD 1 JANUARY 2021 – 31 DECEMBER 2021**

<b>Date</b>	<b>25 March 2021</b>
<b>Decision Maker</b>	<b>Executive Member for Regeneration</b>

<b>Decision</b>	<b>Installation of Stainton Way Toucan Crossing</b>
<b>Reason for Urgency</b>	<b>There is no safe crossing connection for children attending the Kings Academy, coupled with a road traffic accident towards the end of 2020 and any delay may result in another road traffic accident.</b>

### 36. URGENT DECISIONS TAKEN IN THE PERIOD 1 JANUARY 2021 – 31 DECEMBER 2021

The following urgent decisions, with the agreement of the Chair of Overview and Scrutiny Board, were taken:

<b>Date:</b>	<b>19/01/2021</b>
<b>Decision Maker</b>	<b>Executive</b>
<b>Decision</b>	<b>CONFIDENTIAL: Project Community Champions - Information contained in the report was embargoed by the Government.</b>
<b>Reason for Urgency</b>	<b>Urgent - decision needs to be implemented immediately to enable year one funding to be spent.</b>
<b>Date</b>	<b>19/01/2021</b>
<b>Decision Maker</b>	<b>Executive</b>
<b>Decision</b>	<b>CONFIDENTIAL: Project Adder - Information contained in the report was embargoed by the Government.</b>
<b>Reason for Urgency</b>	<b>The Government has allocated funding – a decision which was communicated to the council by email on 13 January 2021, the purpose of which has been embargoed by the Government for the time being. Concerning urgency, the MOU must be returned to MHCLG by 21 January 2021.</b>
<b>Date:</b>	<b>13/04/2021</b>
<b>Decision Maker</b>	<b>Executive</b>
<b>Decision</b>	<b>Changing Futures Funding Opportunity</b>
<b>Reason for Urgency</b>	<b>The submission deadline is 6th May 21 and there is a substantial amount of work to be done across the South Tees partnership (i.e. multiple organisations) in order to develop the costed delivery plan and final bid. If the decision was to be subject to call-in, any delay could result in missing the deadline for the submission of the bid.</b>
<b>Date</b>	<b>27/05/2021</b>

<b>Decision Maker</b>	<b>Executive</b>
<b>Decision</b>	<b>Project: Prevention and Promotion Fund for Better Mental Health and Wellbeing 2021-22</b>
<b>Reason for Urgency</b>	<b>The short turnaround time to submit the expression of interest means that an urgent decision is required to help us progress. Delay in decision making would mean that Middlesbrough Council will not be given the grant and we will not be able to implement intervention to address the additional impact of covid-19 on public mental health and wellbeing particularly amongst vulnerable groups – children and young people, minority ethnic groups, single parents and people who live in the most deprived wards of the borough.</b>
<b>Date</b>	<b>07/09/2021</b>
<b>Decision Maker</b>	<b>Executive</b>
<b>Decision</b>	<b>Audit to Excellence Service</b>
<b>Reason for Urgency</b>	<b>An audit report must be presented to the Multi-Agency Strategic Improvement Board on a quarterly basis. It is part of our improvement programme and the improvement plan is tightly monitored and must be delivered with pace. As noted above, audits are a barometer for practice improvement. This means that there cannot be any break in delivering the Audit to Excellence Programme or any deviation from this model – hence the urgent need for this decision.</b>
<b>Date</b>	<b>22/12/2021</b>
<b>Decision Maker</b>	<b>Director of Adult Social Care and Health Integration</b>
<b>Decision</b>	<b>Community Champions Fund – national funding investment in Middlesbrough.</b>
<b>Reason for Urgency</b>	<b>New Memorandum of Understanding had to be signed and returned by 28 December 2021 to enable funding to be released.</b>

### **What decision(s) are being recommended?**

37. That the Corporate Affairs and Audit Committee:

- Notes the information provided with regard to the Council's decision making process.

### **Rationale for the recommended decision(s)**

38. The Corporate Affairs and Audit Committee requires assurance that the appropriate decision making processes are in place

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

39. Do Nothing. If this option was selected the Corporate Affairs and Audit Committee would not have any evidence to demonstrate that appropriate decision making processes are in place.

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

***Legal***

40. The 2000 Local Government Act requires all local councils to have a constitution. The constitution provides a basis and framework for the councillors and officers to work within to ensure lawful decision making.

***Strategic priorities and risks***

41. 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.

<b>Risk No</b>	<b>Risk Description</b>	<b>Impact</b>
08-054	Failure to adhere to Local Code of Corporate Governance and deliver governance improvements outlined in the Annual Governance Statement.	By providing evidence of the decisions taken and the training that has been undertaken, then Council is demonstrating that good governance is in place and so this would have a positive impact on this risk.
08-055	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***

42. Not applicable

***Financial***

43. 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
There are no Actions arising from this report.	N/A	N/A

## Appendices

1	<b>Appendix A</b> - Copy of report containing details of Officer Delegated Decisions taken during the period 1 January 2021 - 31 December 2021.
2	<b>Appendix B</b> - Copy of report containing details of Executive decisions taken during the period 1 January 2021 - 31 December 2021.
3	<b>Appendix C</b> - List of training and briefing sessions held during the period 1 January 2021 - 31 December 2021.
4	<b>Appendix D</b> - List of decisions taken by the Gold command group during the period 1 January 2021 - 31 December 2021.

## Background papers

Body	Report title	Date

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