

Report of:	Executive Member for Environment, Finance and Governance Director of Legal and Governance Services and Monitoring Officer - Charlotte Benjamin
-------------------	--

Submitted to:	Council
----------------------	---------

Date:	25 May 2022
--------------	-------------

Title:	Update – Council Constitution
---------------	-------------------------------

Report for:	Decision
--------------------	----------

Status:	Public
----------------	--------

Strategic priority:	All
----------------------------	-----

Key decision:	No
----------------------	----

Why:	Not applicable
-------------	----------------

Urgent:	No
----------------	----

Why:	Not applicable
-------------	----------------

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.

- | |
|--|
| <p>3. This report details proposed amendments to the Constitution and seeks approval from full Council for the proposed changes to the Constitution as detailed in the report.</p> |
|--|

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 and seeks approval from full Council for the proposed changes to the Constitution as detailed in the report.

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

1. Council Procedure Rules

Recorded vote

Amendment to Paragraph 65 of the Council Procedure Rules

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).

Cancellation of Council Meetings

Amendment to Paragraph 12 of the Council Procedure Rules

In order to provide clarity it is proposed that the text with regard to Paragraph 12 – Cancellation of Meetings, of the Council Procedure Rules 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.

2. Inclusion of Group Leader Role Profiles within the Constitution

The Group Leader Role Profile (Appendix 1) to be included in the Council's Constitution at Part 6 – Codes and Protocols.

3. Replacement of Senior Management Chart

The attached updated version of the Senior Management Chart should be inserted into the Constitution at Part 5 – Management Structure. (see Appendix 2)

4. Key Decision Threshold

For clarification purposes, the amount of the key decision threshold, £150,000 (taking into account the lifetime costs or savings of the project), has been included within the Constitution at Article 12- Paragraph 12.3 – Decision Making.

5. 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

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.

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.**

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.**

Discharge of all of the above functions required by the Localism Act 2011 in relation to Parish Councils.

Access to Information Procedure Rules

6. The revised Access to Information Procedure Rules (Appendix 3) be included in the Constitution.

What decision(s) are being recommended?

7. 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)

8. 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

9. 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

10. 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

11. 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

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

Financial

13. 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	Group Leader Role Profile
---	---------------------------

2	Senior Management Structure
3	Access to Information Procedure Rules

Background papers

Body	Report title	Date

Contact: Charlotte Benjamin
Email: charlotte_benjamin@middlesbrough.gov.uk