

Middlesbrough Borough Council Constitution Review
Report to the Constitution and Members' Development Committee – 13 April 2023

As reported at the Constitution and Members' Development Committee meeting on 20 February 2023, CIPFA has been asked to review and update the Council's Constitution as part of the Council's Governance Improvement journey. On 22 March 2023, CIPFA presented a Members' Briefing, at which an overview of the changes being made to the Constitution was provided, and Member input was sought.

The refresh of the Constitution is now substantially complete and the Committee is asked to approve the updated Constitution and recommend it for approval at Full Council on 26 April 2023.

Annex 1 to this report sets out a number of outstanding items that have yet to be completed in the drafting of the Constitution. The Committee is asked to approve the Constitution **in principle** and to authorise the Monitoring Officer to finalise the document with CIPFA. Most of the outstanding items are points of clarification.

Annex 1 also highlights a couple of items that will need to be addressed outside of this review exercise. The reasons for this are identified in the table in Annex 1.

Annex 2 to this report sets out the matters for consideration by the Committee at its meeting on 13 April 2023.

The Committee has also been provided with the latest version of the Constitution. As noted above, this is in substantially final form, subject to resolving the few outstanding items. The meeting papers also include an updated version of the table recording the amendments that have been made to the existing Constitution.

Annex 1

Outstanding items in the updated Constitution

The Constitution and Members' Development Committee is requested to provide agreement in principle to the items below and to delegate finalisation of the drafting to the Monitoring Officer (in consultation with CIPFA).

Section	Outstanding item	Comment
Various	Questions and points of clarification to be discussed with Monitoring Officer	Resolution of these comments and queries will not lead to substantive changes – they are for the purposes of confirming points of detail / practice. Comments and queries have been left in the version of the Constitution shared with the Committee, for information.
Throughout	Cross referencing and final “cold towel” read	This will be done once the outstanding points are resolved, and before the Constitution goes to Council on 26 April.
Section 22	Officers' Code of Conduct	Changes to be agreed by LMT and Trade Unions. With Nicola Finnegan to progress.
Section 9	Licensing Committee rules	To be checked against Council practice.
Section 9	Planning and Development Committee rules	To be checked against Council practice.
Separate document	Updates to the Contract Procedure Rules to reflect legislative changes	These changes can be made as BAU under section 2.5(c) of the new Constitution.
Section 7 and separate document	Scrutiny Protocol to be sense checked against the Constitution	
Section 8	Involvement of Members earlier in the Standards process	This is a bigger change than the scope of the Constitution refresh envisages. It is something that the Committee could take forward themselves and submit a proposal on in future and/or it could be considered in Phase 3 of the

		Governance Improvement work.
N/A	Clarity on political role of Members	This needs input from Members/Officers. It is something that the Committee could take forward themselves and submit a proposal on in future and/or it could be considered in Phase 3 of the Governance Improvement work.
N/A	Training as a Constitutional requirement	Nothing added at this stage as (i) it is not possible to make Member training mandatory; (ii) the Training and Development Working Group has not met again since the last Constitution Committee to consider this point; and (iii) this is likely to be considered as part of the Phase 3 Governance Improvement work.

Annex 2

Matters for consideration by the Constitution and Member Development Committee – 13 April 2023

	Consideration of how the Constitution should be published	<p>Several options were discussed at the Member Briefing on 22 March:</p> <ol style="list-style-type: none">1. Publish document as a whole.2. Publish document in several sections e.g., main body of the Constitution (sections 1-15) with other sections published separately (while emphasising that the Constitution is a whole document).3. Publish the document as a whole, and also publish sections individually so they can be accessed separately. <p>Points to consider:</p> <ul style="list-style-type: none">• Ease of access for the reader (bearing in mind the Constitution must be accessible to the public).• Change propagation and version management.• Ease of navigation and cross referencing.
	Consideration of how the Constitution can be made accessible for people with disabilities	<p>It was discussed at the Members' Briefing that the Constitution should be made available to those with different access needs.</p> <p>The Council has an accessibility statement on its website - Accessibility statement Middlesbrough Council. To consider whether this is sufficient, given that the Constitution will be published on the website.</p>
	Consideration of whether, and where, the Constitution should be published in the key languages spoken in the Town	<p>It was also discussed at the Members' Briefing that the Constitution should be published in the key languages spoken in the Town.</p> <p>This needs to be consistent with the approach taken by the Council to other public-facing documents. There are also cost implications for providing documents in different languages that need to be considered.</p>

	<p>Consideration of how version history should be recorded</p>	<p>It is important for the version history of the Constitution to be maintained, and for a record of changes made to it to be kept. However, this does not necessarily need to be recorded at the front of the Constitution, provided that Legal have a record.</p>
	<p>Consideration of which documents should be included in the Constitution and which should be linked</p>	<p>There was discussion at the Member Briefing about how the Constitution could be made shorter, while still providing access to all key information.</p> <p>One way of doing this is to link to relevant policies and procedures, rather than including them in the document itself. For example, the Whistleblowing Policy could be linked in the Corporate Affairs and Audit Committee section as that Committee owns the policy. Another document to consider is the Executive / Scrutiny Protocol. Should this be integral to the Constitution, or be a standalone document? Ann-Marie Wilson's view is that it sits outside the Constitution, in which case it should be cross-referred.</p> <p>The advantage to including protocols and policies in the Constitution is that it means everything is in one place. However, this also means that the document becomes very large, and potentially unwieldy. This could be resolved by adopting option 2 or 3 for publishing the Constitution (see above).</p>
	<p>Approval (in principle) for Constitution to be finalised for approval by Full Council on 26th April 2023</p>	<p>The Constitution is in very near final form, with some outstanding items to complete/tidy up. Approval is sought for those items to be completed in line with discussions at this meeting and in discussion with the Monitoring Officer.</p>