

MIDDLESBROUGH COUNCIL	
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Report of:	Charlotte Benjamin, Director of Legal & Governance Services and Monitoring Officer
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Submitted to:	Constitution and Member Development Committee
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Date:	20 August 2025
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Title:	Refresh of the Constitution
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Report for:	Decision
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Status:	Public
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Council Plan priority:	Delivering Best Value
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Proposed decision(s)

That the Constitution and Members Development Committee:

- consider and discuss the proposed refreshed Constitution (Appendix 1);
- provide any comments in respect of the refresh of the Constitution at the meeting;
- subject to any updates and amendments to the refreshed Constitution agreed at Committee, **APPROVES** the draft Constitution for recommendation to Full Council.

Executive summary

The Council is continuing to deliver its Continuous Improvement Plan, which includes reviewing its Constitution and scheme of delegations. This work is being led by the Constitution and Member Development Committee (“CMDC”).

Officers and Members each have a key role to play in this process to ensure the Constitution and delegations reflect the law and local custom and practice. CMDC set up a working group to ensure that the refreshed Constitution is presented to Full Council for adoption.

This report invites the Constitution and Member Development Committee to consider the proposed changes to the Constitution and to recommend a refreshed Constitution to Full Council following extensive engagement with Members in relation to the work undertaken.

1. Purpose

- 1.1 The Constitution and Member Development Committee ('CMDC') has been reviewing the provisions of the Constitution to remove duplication where possible and improve its usability. The current draft document in its entirety is now presented to the Committee for consideration, being the body responsible for making recommendations to Council in respect of the Constitution.

2. Recommendations

- 2.1 That the Constitution and Members Development Committee:
- 2.1.1 consider and discuss the proposed refreshed Constitution (Appendix 1);
 - 2.1.2 provide any comments in respect of the refresh of the Constitution at the meeting;
 - 2.1.3 subject to any updates and amendments to the refreshed Constitution agreed at Committee, **APPROVES** the draft Constitution for recommendation to Full Council.

3. Background and relevant information

- 3.1 The Council has recognised that improvements can be made to its governance processes, as set out in the Continuous Improvement Plan, with particular reference to the refresh of the Constitution to ensure that it is accurate and current.

Engagement

- 3.2 The Constitution was last updated in September 2023. It is a living document that evolves continuously to reflect the ever changing environment in which the Council operates – nationally, regionally and locally. The Monitoring Officer therefore has ongoing responsibility to ensure that the Constitution remains accurate and lawful, and has delegated authority to make some changes, which are then reported to the next meeting of Council. More fundamental changes are approved by Full Council.
- 3.3 Members are aware that issues of omissions, duplication and inconsistency have been identified, which is not unusual given the dynamic and complex environment in which the Council operates. The whole Constitution has therefore been reviewed as one coherent document with a view to ironing out the issues and ensuring that the Constitution appropriately reflects the Council's governance and operating arrangements.
- 3.4 Most of the work on the Constitution refresh has been through the Constitution and Member Development Working Group (the 'Working Group'). The Working Group has included members of the CMDC during the previous and current municipal year; the current membership includes members of the CMDC for both municipal years plus group leaders. The working group has met 6 times over the course of the Constitution refresh, to discuss in detail the proposed amendments to the Constitution. Additionally, the Monitoring Officer has met with the Labour group members and, separately, with non-Labour group members to engage regarding key questions about the Constitution

that required a Member steer. All of those engaged with have had a copy of the working draft of the Constitution document, to comment on.

3.5 Following the engagement sessions the Constitution has been drafted with the following provisions included:

- 3.5.1 The public will be able to attend all meetings of the Executive.
- 3.5.2 Chairs and vice-chairs of the Committees will be appointed by the Committees.
- 3.5.3 Officers will be able to attend meetings remotely in exceptional circumstances with the consent of the Chair and Monitoring Officer if facilities are available.
- 3.5.4 Three levels of questions will be retained: On Notice, Without Notice and Prior Indication.
- 3.5.5 Supplementary questions will be permitted.
- 3.5.6 The time for questions will be extended to one hour in total: 45 minutes for questions from members and 15 minutes for questions from members of the public. Member questions can extend to the full hour if time permits.
- 3.5.7 The standard provisions at 4.8.7 (b) will attend to motions as well as to questions.
- 3.5.8 The mover of a motion is able to withdraw it at any point prior to publication.
- 3.5.9 The mover of a motion is able to withdraw a motion after publication by notifying the chair of the meeting.
- 3.5.10 Provision on substitutes will be relaxed to allow Members to give 24 hours notice of appointment of a substitute.
- 3.5.11 The prohibition on the Mayor being part of the Audit and Standards Committees will be maintained.
- 3.5.12 Provision will be made for questions from Members and from the public at meetings of the Executive.
- 3.5.13 There will be a minimum number of six Overview and Scrutiny Board meetings per year.
- 3.5.14 The existing scrutiny rules that whipping arrangements must be declared and minuted will be retained.
- 3.5.15 A scrutiny report not responded to by Executive within eight weeks, must be sent to Full Council for consideration.
- 3.5.16 Decisions taken as a matter of urgency with the approval of the Chair of the Overview and Scrutiny Board must be reported to the next available meeting of Full Council with the reasons for urgency.
- 3.5.17 Members representing a Ward which is particularly impacted by a decision which has been called in or is being scrutinised will have the right to address the scrutiny panel even if they are not signatories to a call in.
- 3.5.18 Additional information is included in the scrutiny procedure rules on what is expected of a decision maker reconsidering a decision that has been referred back to them.
- 3.5.19 Chief Officer Appointment Committee has been renamed as Chief Officer Committee, with two sub-committees, to undertake the statutory processes in relation to the appointment and discipline and dismissal of statutory Chief Officers.
- 3.5.20 Dispensations will continue to be granted by the Standards Committee. The Monitoring Officer may grant a dispensation in consultation with the Chair of

Standards Committee. where the matter is urgent and report it to the next available Standards Committee.

Constitution

3.6 Since the last meeting of the Committee, the order of the Constitution has been updated to ensure that relevant sections are grouped together as logically as possible to make the document easier to navigate. The Constitution is therefore proposed to have the following arrangement of contents:

- (a) Section 1 – Introduction
- (b) Section 2 – Constitution
- (c) Section 3 – Citizens and the Council
- (d) Section 4 – Full Council
 - Council Procedure Rules
- (e) Section 5 – Members
 - Members Scheme of Allowances
 - Protocol for Members and Officers on Gifts and Hospitality
- (f) Section 6 – The Mayor and the Executive
 - Executive Procedure Rules
- (g) Section 7 – Overview & Scrutiny
 - Overview & Scrutiny Procedure Rules
 - Councillor Call for Action Procedure and Guidance
- (h) Section 8 – Standards
 - Member Code of Conduct
- (i) Section 9 – Officers
 - Officer Employment Procedure Rules
 - Protocol for Statutory Chief Officers responsible for Governance
 - Officer Code of Conduct
 - Protocol on Member / Officer Relations
 - Monitoring Officer Protocol
- (j) Section 10 – Responsibility for Functions
 - Part A – Introduction
 - Part B – Non-executive Functions
 - Part C – Responsibility for Executive Functions
 - Part D – Scheme of Delegation of Functions to Officers
- (k) Section 11 – Alternative Service Delivery Vehicles
- (l) Section 12 – Finance, Contracts and Legal Matters
 - Financial Procedure Rules
 - Procurement and Contract Procedure Rules
- (m) Section 13 – Decision-making
- (n) Section 14 – Access to Information Procedure Rules
- (o) Section 15 – Budget and Policy Framework Procedure Rules.

3.7 Members will recall that a “roadmap” of changes has been maintained to show in detail what changes have been made to the Constitution and why. The completed Roadmap to the changes is available to Members but is not included with this report given that it

runs to some 730 pages. However, access to this document can be secured via Democratic Services if desired.

Summary of changes to the Constitution

Section 1 – Introduction

- 3.8 Section 1 is the introduction to the Council and the Constitution. It contained some numbering conflicts, which have been resolved. The basic formatting rules for the entire document to ensure compliance with accessibility standards (font size, spacing, justification etc) have been set in this section.
- 3.9 Section 1 is expanded to make it easier to understand the document – for example, the date of the last election is included beside the frequency of election so people can work out when the next programmed election will take place. Cross references to the relevant parts of the Constitution are included where appropriate and language and presentation is harmonised to the style adopted throughout the Constitution.
- 3.10 Once the final document is agreed it is proposed that cross references throughout will, as far as possible, be hyperlinked to improve usability of the document.
- 3.11 The greatest changes to section 1 are the proposed inclusion of a diagram to depict how the Council works – see section 1.2 – and a table of common local democracy timescales for the Council at paragraph 1.10.
- 3.12 The contents page now also includes an index of diagrams (Figures) in the Constitution as well as an index of Tables for ease of navigation.

Section 2 – The Constitution

- 3.13 Section 2 explains what the Constitution is and how it operates. Some parts of this section have been reordered to improve readability, however it is largely the same content as the existing Constitution. Cross references have been included where appropriate.
- 3.14 The biggest change at Section 2 is the expansion of the glossary to include all words and phrases specific to the Constitution in one place. This reduces duplication throughout the document and means that future changes need only be made in one place.

Section 3 – Citizens Rights

- 3.15 Section 3 deals with citizens' rights. References to petitions have been included here as well as appropriate cross referencing throughout.
- 3.16 Whilst the inclusion of the arrangements for petitions in this section is the biggest change, new paragraph 3.5.2 has been included to reflect that citizens should treat Members and Officers, and their property, with respect.

Section 4 – Council

- 3.17 Section 4 contains some of the most substantial changes to improve readability and reduce duplication.

- 4.1 - sets out what the Full Council is and the types of meetings it holds.
- 4.2 – sets out who can be Chair and Vice Chair of the Council
- 4.3 – distinguishes between the role of Chair and Elected Mayor
- 4.4 – sets out the functions reserved to Full Council
- 4.5 – sets out the Policy Framework for the Council
- 4.6 – sets out the budget framework for the Council
- 4.7 – introduces the budget and policy framework rules
- 4.8 – sets out the procedure rules by which the Council will operate.

- 3.18 The **Council Procedure Rules** (CPR's) are also reordered to remove duplication and improve readability. The CPRs have been refocused for general application to all committees unless otherwise stated. Of particular note are the following paragraphs:

- 4.8.3 the order of business for the Annual meeting of Council which deals more explicitly with the matters to be determined at the meeting, including the vote of thanks and agreement of the non-executive scheme of delegations;
- 4.8.4 sets out the order of business for ordinary meetings of Full Council, distinguishing between announcements and reports, provides for questions on notice from the public and members, and includes provisions for the receipt of petitions. It also includes explicitly that Council can amend the order of meetings agreed at the annual meeting, and what the usual time and venue of the meetings will be. There is also specific recognition that the Chair can amend the order of business before or during the meeting with consultation of the MO and group leaders;
The biggest change is the inclusion of a section which relates solely to the annual Budget meeting of council (paragraph 4.8.4(e) to (h)). It covers the business of the budget council and the amended arrangements for reports, questions and motions.
- 4.8.6 Expands the information re cancelling meetings at (c), requiring the agreement of the Chair and Vice Chair after consulting the Monitoring Officer. It confirms notice of cancellation should be provided to those summonsed to the meeting as quickly as possible.
- 4.8.7 Confirms the Monitoring Officer's remit to provide advice to the Chair as to whether the business of a meeting is valid and consolidates previous disparate qualifications into one list of criteria at 4.8.7(b). The section also reflects that the Chair shall hear from group leaders / Members when determining whether to include an item of business on an agenda.
- 4.8.9 Provides for Chairs and Vice Chairs to be appointed by the committee instead of at the annual council meeting.
- 4.8.10 sets the quorum for all meetings and what happens when a meeting is inquorate.

- 4.8.11 Slight change to remote meeting provisions to reflect circumstances in which officers can attend remotely at (b);
- 4.8.12 **NEW:** explicit confirmation that the persons listed may have up to 10 minutes at the start of a meeting to make announcements and answer questions from members on the announcement;
- 4.8.13 **NEW:** provisions setting out who may present reports to Council and how they will be handled.
- 4.8.15 **CONSOLIDATED:** questions are consolidated into this section, whether from the public, Members on Notice, Members with Prior Indication or Members without notice. Clear provisions set out in terms of where notice of questions are to be given and when. General provisions in respect of questions are set out from (m) onwards.
- 4.8.17 Timings for questions consolidated here, distinguishing public questions from Member questions on notice.
- 4.8.19 improved provisions on withdrawal of questions;
- 4.8.21 **NEW:** includes provision for questions sent under 4.8.15 to be circulated to Members
- 4.8.22 **NEW:** defines motions and confirms that recommendations in reports are motions but that paragraphs 23 – 25 don't apply to them.
- 4.8.24 **NEW:** provisions around motions are clearly set out here, cross referencing back to the business criteria at 4.8.7(b), confirming when a notice of motion will be accepted and how they will be dealt with
- 4.8.26 **CONSOLIDATED:** enhanced detail around the consideration of motions is provided in this paragraph
- 4.8.27 **NEW** Motions can be withdrawn after publication with the consent of the Chair.
- 4.8.29 **CONSOLIDATED:** requires those wishing to amend a motion to discuss it with the proposer of the original motion to try and agree any changes first, and, if in relation to the budget, require 3 days notice to the Chief Finance Officer (c);
- 4.8.31 **CONSOLIDATED:** Motions of no confidence are dealt with here, with clarification as to the impact of the same re executive members;
- 4.8.32 Provisions in respect of Petitions are included here;
- 4.8.40 **CONSOLIDATED:** Simplification on provisions re substitutes.

- 3.19 The protocol for recording council meetings is moved up to paragraph 4.9 with minimal changes to language and presentation for consistency and is **DELETED** from existing Section 24 (Codes and Protocols).

Section 5 – Members

- 3.20 Enhanced information is provided in this section to distinguish between executive and non-executive parts of the Council, with removal of duplication on terms of office etc. Additional information is included regarding the role of Members (from the role profiles) and the key objectives for members identified by the Joseph Rowntree Foundation are included at paragraph 5.7.1. Cross referencing to the Access to Information Procedure

Rules, Members Allowance scheme and the Member Code of Conduct has been included throughout.

- 3.21 The **Members Allowance Scheme** has been incorporated into this section for ease of reference, at paragraph 5.10. Minimal changes have been made to the scheme to harmonise presentation and language. The figures of Special Responsibility Allowances have been updated to reflect changes in the numbers of scrutiny panels and committees at Table 2. Accordingly, Section 22 of the current Constitution is **DELETED**
- 3.22 **Member Role Profiles** have been moved to paragraph 5.11 from the existing Appendix 2, setting out the expectations and responsibilities on Members in addition to those included already at Section 5. Appendix 2 of the existing Constitution is therefore **DELETED**.
- 3.23 The **Protocol for Members and Officers on Gifts and Hospitality** is moved to the section 5 for clarity and prominence with minimal changes.

Section 6 – The Mayor and the Executive

- 3.24 This builds on the information contained in Section 4 in particular but focuses on the executive aspect of the Council's arrangements. The Mayor's role is distinguished from that of a councillor and defined, and details regarding the role of Deputy Mayor are also included.
- 3.25 Paragraph 6.11 onwards set out the details for the Executive, while 6.16 lists the sections of the Constitution that form the executive arrangements.
- 3.26 The **Executive Procedure** Rules are found at paragraph 6.17 and govern how the Executive will operate. As with section 4, the Executive Procedure Rules have been harmonised with duplication removed. The Mayor's role is defined and distinguished from that of a councillor, and further detail is provided in relation to the role of the Deputy Mayor.
- 3.27 The Executive Procedure Rules are set out at 6.17 and of particular note are the following provisions:
- 6.17.1 who can make executive decisions and how the Mayor manages changes to delegations;
 - 6.17.3 **EXPANDED:** in respect of conflicts of interest for Executive Members;
 - 6.17.4 **NEW:** it is proposed that there be a minimum number of Executive meetings each municipal year, replacing the existing provisions that there be 'regular' meetings of the Executive. 10 has been included (i.e. every 6 weeks) but this will be considered by the Mayor.
 - 6.17.8 **CONSOLIDATED:** provisions on attendance at Executive meetings are set out specifically, reflecting the custom and practice that has existed to date. Section (d) confirms that Statutory Chief Officers can attend any Executive meeting, public or private.

- 6.17.11 **NEW:** reflecting the provisions included in the Council Procedure Rules at Section 4 and the Scrutiny Procedure Rules at Section 7, a list of business to be considered at a meeting of the Executive is set out in this paragraph.
- 6.17.12 **NEW:** this paragraph deals with who can place items on the agenda for the Executive.
- 6.17.13 **MOVED:** the provisions in respect of the content of Executive reports have been replaced with a reference to Section 13 of the Constitution (decision-making) to reduce duplication.
- 6.17.14 **NEW:** this section provides for questions to be asked at a meeting of the Executive by members of the public and Members. The notice provisions and processes reflect those contained within the Council Procedure Rules at section 4, including the ability for a supplementary question to be asked.
- 6.17.16 **NEW:** general provisions regarding questions are set out in this section including time limits for asking questions and responding to them. The section confirms that the answer may be given in a number of ways.
- 6.7.17 **NEW:** this section covers key decisions and the forward work programme. It cross references the definition of a Key Decision, which is now defined in Section 13, and the Access to Information Procedure Rules at Section 14. It confirms the provisions for challenging Key Decisions is in the Overview and Scrutiny Procedure Rules.

Section 7 – Overview and Scrutiny

- 3.28 Section 7 relates to Overview and Scrutiny. Again, duplication has been removed and the language harmonised across the Constitution, with appropriate cross-referencing. Reference is included to the statutory guidance (7.1.2) while the role of Overview and Scrutiny is set out at paragraph 7.2. Of note however are:

- 7.1.2 Now includes reference to the statutory guidance and principles of good scrutiny;
- 7.2.2 **NEW:** confirms that the Council's powers in relation to health scrutiny, are conferred upon a joint committee
- 7.3 sets out the Overview and Scrutiny functions and which body discharges them.
- 7.4 confirms how the overview and scrutiny proceedings will be managed, referencing the Overview and Scrutiny Procedure Rules.
- 7.5 sets out the number and format of scrutiny panels and the arrangements for joint scrutiny panels, cross referencing as appropriate to section 10 (responsibility for functions).
- 7.6 **CONSOLIDATED:** the Overview and Scrutiny Procedure Rules are set out in this paragraph:
 - 7.6.2 - provides for representation by religious groups at scrutiny meetings
 - 7.6.3 provides that the Board will meet a minimum of 6 times per municipal year (rather than regularly);

7.6.5 provides that Council will appoint the Chairs of Scrutiny panels, with Vice Chairs being appointed by the Committee for standing committees.

7.6.8 sets the business to be discharged at a meeting of overview and scrutiny.

7.6.15 confirms how Overview and Scrutiny reports are to be considered by the Executive or Council.

7.6.17 contains the first provisions for the Call-in process, which is elaborated upon in the subsequent paragraphs in respect of which decisions can and cannot be called in, when it is triggered etc.

7.6.21 sets out the detail as to how a called in decision will be handled.

7.6.22 provides how urgent decisions will be identified and handled.

7.6.24 confirms what is expected of a decision maker reconsidering a decision referred back to them.

- 3.29 The **Councillor Call for Action (CCfA) Procedure and Guidance** is brought forward to paragraph 7.7 given its similarities to the Overview and Scrutiny function. The differences between the CCfA and overview and scrutiny are distinguished while paragraph 7.7.4 sets out the role of Overview and Scrutiny in relation to CCfA. Figure 2 shows the process by which a Councillor Call for Action is handled while 7.7.5 confirms what action may be taken in relation to a CCfA.
- 3.30 Paragraphs 7.7.6 contains the checklist by which CCfA will be assessed or validity. Accordingly, the content of Appendix 5 of the existing Constitution is **DELETED**.

Section 8 – Standards

- 3.31 Section 8 relates to standards of conduct. Broadly, the changes to this section involve moving the Member Code of Conduct from current Section 24 to this section 8, transferring the functions of the Standards Committee from Section 8 to section 10 (Responsibility for Functions), where the functions of all committees sit and removing the standards committee hearing procedures, including them instead by a hyperlink as they do not need to be part of the Constitution.
- 3.32 Proposed paragraph 8.2.2. now includes reference to the statutory requirement to have an independent person who can be consulted in relation to Member Code of Conduct complaints. Further detail on the role of the independent person is contained within paragraph 8.8.
- 3.33 Paragraph 8.4 provides detail as to the role of the Standards Committee in respect of Parish Councils.
- 3.34 The Member Code of Conduct is as per the LGA model code of conduct and is therefore maintained in the first person but with improved presentation to make it clearer what is the code and what is the guidance on the code. It is included at paragraph 8.9 and therefore **DELETED** from Section 24 (Codes and Protocols) in the existing Constitution.

Section 9 – Officers

- 3.35 The new section 9 is at Section 11 in the current Constitution. It is proposed to move forward so that all major decision makers in the Council are introduced in the Constitution prior to the Constitution setting out who holds what responsibilities for functions. The Officer section has been expanded to enable all officer related aspects of the Constitution to be concentrated in one place, including:
- a. Who officers are
 - b. How they should behave
 - c. The roles of statutory officers and who they are
 - d. The general responsibilities of all chief officers and their specific roles:
 - i. Chief Executive
 - ii. Director of Finance
 - iii. Director of Legal & Governance Services
 - iv. Executive Director of Adult Social Care & Health Integration
 - v. Executive Director of Children's Services
 - vi. Director of Environment and Commercial Services;
 - vii. Director of Regeneration.
 - viii. Director of Public Health
 - e. The identity of other non-chief officer statutory officers:
 - i. Returning Officer and Electoral Registration Officer
 - ii. Scrutiny Officer
 - iii. Data Protection Officer
 - iv. Local Authority Designated Officer
 - v. Qualified person under the Freedom of Information Act 2000
 - f. Proper Officers
 - g. Officer Employment Procedure Rules (para 9.10)
 - h. Protocol for Statutory Chief Officers responsible for Governance (para 9.11)
 - i. Officer Code of Conduct (para 9.12)
 - j. Protocol on Member / Officer Relations (para 9.13)
 - k. Monitoring Officer Protocol (para 9.14).
- 3.36 Information regarding the roles of statutory chief officers has been pulled together at paragraph 9.3, with additional detail in respect of the governance statutory chief officers at paragraph 9.4. The role of other Chief Officers is included at 9.5 while the general responsibilities of all chief officers are set out in paragraph 9.6. Individual responsibilities are included at paragraph 9.7.
- 3.37 Paragraph 9.8 introduces statutory officers who are not chief officers, while paragraph 9.9 identifies other categories of officers. Section 9 now also cross references to Section 10 (Responsibility for Functions) with reduced duplication.
- 3.38 The **Officer Employment Procedure Rules** at paragraph 9.10 have been updated to rename the Chief Officer Appointments Committee as the Chief Officer Committee and creation of its sub-committees in respect of appointment and disciplining Chief Officers. The rules also retain the current provisions in respect of the appointment of political assistants by the Council.
- 3.39 The **Protocol for Statutory Chief Officers responsible for Governance** at paragraph 9.11 is **NEW** and reflects evolving practice in relation to the increased

frequency with which statutory chief officers must grapple with whether to issue a statutory report (see paragraphs 9.11.9 – 9.11.18). It also incorporates the Code of Practice on Good Governance for Local Authority Statutory Officers, developed jointly by the professional bodies for the three statutory officers, SOLACE (Head of Paid Service), CIPFA (Chief Finance Officer) and LLG (Monitoring Officer).

- 3.40 The items at (g) are incorporated into contracts of employment therefore the only changes are in respect of harmonisation of language and presentational. The three items are currently contained in Section 24 of the existing Constitution and are therefore **MOVED** to the refreshed Section 9.
- 3.41 The current Constitution Appendix 3 (Statutory Officer Protocols) is in fact the statutory officer profiles, the contents of which are now specifically included in the proposed Section 9. They do not therefore need to be retained separately in the proposed Constitution and are therefore **DELETED**.
- 3.42 Similarly, the Proper Officer functions set out at Appendix 4 in the current Constitution are included within the revised Section 9 provisions for Proper Officers at paragraph 9.9. Appendix 4 is also therefore **DELETED**.

Section 10 – Responsibility for Functions

- 3.43 The proposed Section 10 replaces existing Sections 9 (Responsibility for Functions), 15 (Scheme of Delegations) and 21 (Scheme of Delegation) and is greatly expanded. At present, the Schemes of Delegation referenced in the Constitution at section 15 and 21 do not include any detail. It has been updated to include expanded detail on the schemes of delegation and reflect the separation of Corporate Affairs and Audit functions across two committees. It has therefore required the greatest volume of changes in appearance and content. It is proposed that all of the functions are captured here – executive, non-executive and local choice – with the information previously scattered across other sections. The Section is therefore proposed to be divided into:

Part A: A general introduction to local authority functions and how they are discharged.

Part B: Responsibility for Non-executive Functions:

- Full Council
- Audit Committee
- Chief Officer Committee
- Constitution & Member Development Committee
- Corporate Affairs Committee
- Licensing Committee
- Overview & Scrutiny Board & Committees
- Planning & Development Committee
- Staff Appeals Committee
- Standards Committee
- You Matter to Us – Corporate Parenting Board
- Joint arrangements
 - Cleveland Fire and Rescue Combined Fire Authority

- Cleveland Police and Crime Panel
- Durham Darlington Teesside Hambleton Richmondshire and Whitby STP Joint Overview & Scrutiny Committee;
- Live Well South Tees Board
- North East Joint Health Scrutiny Committee
- Northumbria Regional Flood Defence Committee
- River Tees Port Health Authority
- South Tees Health Scrutiny Joint Committee
- Tees Valley Combined non-executive joint committees in respect of audit and governance and overview and scrutiny
- Teesside Pension Fund Committee

Part C: Responsibility for Executive Functions

- Mayor
- Executive
- Portfolio Holders
- Executive Sub-committee for Property
- Joint arrangements
 - Joint Archives Committee
 - Emergency Planning Joint Committee
 - Tees Valley Combined Authority – Cabinet

Part D: Scheme of Delegation of Functions to Officers

- Introduction
- General
- Statutory Officers
- Chief Officers
- Proper Officers.

3.44 Generally, duplication has been stripped out where possible throughout (e.g. not repeating standard provisions re quorum, membership of the committees, procedure rules etc).

Part A

3.45 **NEW** Part A sets the scene in relation to local authority functions and how they can be discharged by:

- 10.1.3 clarifying the difference between express and general functions, and confirms that authorities have the power to do anything to facilitate or incidental to the exercise of a function;
- 10.1.4 cross referencing the decision-making principles at Section 13;
- 10.2 defining the three types of functions discharged by the Council – Local Choice functions, Non-executive functions and Executive functions – and cross referencing to the appropriate Part of Section 10. This section also sets out how changes can be made to the responsibilities for functions.
- 10.4 introduces the arrangements for executive and non-executive joint committees

10.5 sets out the different types of committees the council can establish – Statutory, Regulatory, Advisory and Other – and whether they are standing or ad hoc committees. It provides detail as to how such committees are convened and operated, cross referencing the Council Procedure Rules and the Executive Procedure Rules.

3.46 Observance of Part A will ensure consistency and transparency of approach by the Council as it discharges the functions particularised in Parts B to D. This new Part A builds upon the information contained within the document entitled “Part 3 – Officer Scheme of Delegation” as set out alongside the Constitution on the intranet.

Part B

3.47 **NEW** Part B sets out all of the non-executive functions of the Council in one place as follows:

- 10.6.1 Lists all of the non-executive functions which are discharged by Full Council and have not been delegated, cross referencing the provisions on decision making (Section 13), the Budget and Policy;
- 10.6.2 sets out the local choice functions which are reserved to Council, and whether there is any onward delegation of these functions;
- 10.6.3 confirms that the council has established non-executive committees to discharge non-executive functions;
- 10.7 contains the terms of reference for the **Audit Committee** which now reflect the CIPFA model terms of reference;
- 10.8 **NEW Chief Officer Committee** is the new name for the Chief Officer Appointment Committee and will fulfil the statutory requirements for disciplining statutory chief officers. Previously, reference to arrangements for disciplinary action was only contained within the Officer Employment Procedure Rules. The Committee will be able to convene sub-committees from its membership to deal with appointments and discipline issues, including suspension. Although a non-executive committee, the membership of this committee must include at least one Executive Member;
- 10.9 **NEW Constitution and Members Development Committee incorporates** the arrangements for this committee within the Constitution.
- 10.10. The provisions in relation to the **Corporate Affairs Committee** are standardised with those of other non-executive committees;
- 10.11. The provisions of the **Licensing Committee** are also standardised with other non-executive committees. The functions of the Licensing Committee have been translated into tables for ease of reference.
- 10.12. The requirement to have arrangements in place for **Overview and Scrutiny** is noted here with a cross-reference to Section 7 (Overview and Scrutiny). There is also a reminder that the Chair of the Overview and Scrutiny Board is responsible for a number of other functions in the Constitution, which are summarised at paragraph 5.11.7 of the Constitution.

- 10.13 The provisions for the **Planning and Development Committee** have been standardised where possible but are largely unaltered;
- 10.14 **NEW** terms of reference are included in the Constitution for the **Staff Appeals Committee**;
- 10.15 The terms of reference for the **Standards Committee** have been **MOVED** from existing section 8 to this Part B for consistency;
- 10.16 The terms of reference for the **Teesside Pension Fund Committee** have been **MOVED** from existing Sections 10 (Joint Arrangements) and 23 (Teesside Pension Fund Committee) to this Part B so they sit with the other non-executive committees. The Committee provisions are standardised with other committees also – this committee is created and managed by the Council to administer the Teesside Pension Fund. Although it has members from other authorities on it, it is not a joint committee;
- 10.17 **NEW You Matter to Us – Corporate Parenting Committee** is renamed as a committee rather than a Panel.
- 10.18 **NEW** section setting out the **Non-executive Joint Arrangements** is included here to provide clarity on what the terms of reference are for these non-executive joint arrangements:
- Durham Darlington Teesside Hambleton Richmondshire and Whitby STP Joint Overview & Scrutiny Committee;
 - Joint Archives Committee;
 - Live Well South Tees Board;
 - South Tees Health Scrutiny Joint Committee;
 - Tees Valley Health Scrutiny Joint Committee;
 - Tees Valley Combined Authority Scrutiny Committee;

Part C

- 3.48 The Executive Scheme of Delegation referenced in the existing Constitution at Section 21 is moved to proposed Part C and expanded to encompass the delegations of:
- Mayor
 - Executive
 - Portfolio Holders
 - Executive Committees, Sub-committees and Advisory Panels:
 - o Property
 - o Local Plan Working Group
 - Joint Arrangements:
 - o Joint Archives Committee
 - o Emergency Planning Joint Committee
 - o Tees Valley Combined Authority – Cabinet.
- 3.49 Part C builds upon the information in Section 6 (Executive) of the proposed Constitution and includes the local choice functions which are to be discharged by the Mayor. It also sets out which functions the Mayor has sub-delegated and provides the framework by which such delegated decisions are to be taken and recorded, cross referencing Section 13 (Decision Making) of the Constitution. This removes the need

for the separate document which currently sits alongside the Constitution entitled “Executive Scheme of Delegation”.

3.50 The sub-delegations are as follows:

- 10.19 **NEW** sets out the functions to be determined by **the Executive** and references the provisions of the Access to Information Procedure Rules at Section 14 in respect of call-in and delayed implementation of decisions;
- 10.20 the distribution of portfolios of responsibility to **Executive Members** is **CONSOLIDATED** within this paragraph, based upon standard classifications of areas of responsibility which are proposed to be adopted to ensure consistency of descriptors for Members and Officers.
- 10.21 the provisions for Executive Committees and Sub-Committees are included here, specifically the **Property Committee**. The section also includes the provisions for the **Local Plan Working Group** which is an advisory body to the Executive.
- 10.22 the **NEW Executive Joint Arrangements** are set out in this section, confirming the provisions for the **Joint Archives Committee, Emergency Planning Joint Committee and the Tees Valley Combined Authority Cabinet**. Provision is also made in this section for the committees of the Combined Authority to which the Mayor is entitled to nominate members.

Part D

3.51 This new Part D replaces the document entitled “Part 3 – Officer Scheme of Delegation” which is referenced in the existing Constitution and sits alongside the Constitution on the intranet, and **CONSOLIDATES** the existing provisions at Sections 9 (Responsibility for Functions), 15 (Scheme of Delegations) and 21 (Scheme of Delegation). The revised delegations to officers contained at this Part D are set out as:

- 10.23 **NEW** introduction to the Scheme of Delegation to Officers, sets out where in the organisation the decisions are to be made, and what decisions are delegated. It also specifically deals with what decisions are not delegated to officers at paragraph 10.23.3.
- 10.23.5 identifies when decisions are not delegated;
- 10.23.6 sets out when further sub-delegation is permitted.
- 10.23.7 reflects the method of recording the use of sub-delegations;
- 10.23.8 confirms when the Monitoring Officer can update the Scheme of Delegation;
- 10.24 sets out specific delegations of functions to **individual officers** of the Council to reflect a move towards more generic delegations of functions by standard category. For each officer this is split into executive and non-executive functions to ensure that the appropriate record of delegation is utilised.
- 10.25 contains the **general delegations** to all Chief Officers. These delegations allow officers to perform the day-to-day management of

their service in accordance with Council policies and procedures.
They are sub-divided into:

- (a) Finance;
- (b) Staffing;
- (c) Regulatory; and
- (d) Other.

- 10.26 sets out the functions delegated to **statutory officers** who are not Chief Officers.
- 10.27 sets out the details of the **Proper Officers** appointed for the Council.

Section 11 – Alternative Service Delivery Vehicles

- 3.52 The existing Section 10 covering Joint Arrangements becomes **NEW Section 11, which is renamed “Alternative Service Delivery Vehicles”** to reflect the Council's engagement in bodies beyond joint committees. The current Constitution only included the Health and Wellbeing Board and the Pension Fund committee Content has been expanded to cover:
 - a. access to information
 - b. delegations to and from another local authority
 - c. contracting out of functions
 - d. partnerships.
- 3.53 The list of joint arrangements (executive and non-executive). has been updated, along with short description of what each body does, with any delegations of functions set out within the relevant part of Section 10 (Responsibility for Functions):
 - a. Non-executive arrangements:
 - i. Cleveland Fire and Rescue Authority;
 - ii. Durham Darlington Teesside Hambleton Richmondshire and Whitby Strategic Transformation Partnership Joint Overview & Scrutiny Committee;
 - iii. South Tees Health Scrutiny Joint Committee;
 - iv. Tees Valley Health Scrutiny Joint Committee;
 - v. Tees Valley Combined Authority – Independent Remuneration Panel
 - b. The executive joint arrangements of the Council are:
 - i. Joint Archives Committee
 - ii. Emergency Planning Joint Committee
 - iii. Middlesbrough Development Company Limited
 - iv. Tees Valley Combined Authority - Cabinet
 - v. Tees Valley Combined Authority - Education, Employment and Skills Partnership Board
 - vi. Tees Valley Combined Authority - Transport Committee
 - c. The joint arrangements of the Council which are both Executive and Non-executive in nature are:
 - i. Cleveland Police and Crime Panel
 - ii. Live Well South Tees Board
 - iii. Tees Valley Combined Authority

iv. Collaborative Procurement Sub-Committee (Association of North East Councils).

- 3.54 In addition, paragraph 11.16 captures the areas in which the Council acts as Lead Authority, another way of providing joint arrangements which require appropriate oversight. The Council is lead authority in relation to:
- (a) Metrology laboratory;
 - (b) Geotech Laboratory;
 - (c) Urban Traffic control; and
 - (d) Tees Community Equipment Service.
- 3.55 Paragraph 11.17 sets out where other local authorities are the lead authority as follows:
- (a) Tees Valley Music Service – Stockton-on-Tees Borough Council.

Section 12 – Finance, Contracts and Legal Matters

- 3.56 The Financial Procedure Rules [Financial Regulations] have been **MOVED** into this proposed Section 12 at paragraph 12.6 from Section 18 in the existing Constitution. They have been updated to harmonise language and presentation and include appropriate cross referencing. As a result, the existing list of defined terms at Section B has been **DELETED** as the terms are now included within the glossary at section 2 of the Constitution.
- 3.57 Historically the Financial Approval Framework was not part of the Financial Regulations. The financial thresholds have now been included in a **NEW** Section H of the Financial Procedure Rules, set out at Table 11 of the Constitution for ease of reference. References throughout the Constitution to the Financial Approval Framework have been updated.
- 3.58 No fundamental changes (other than to common terms and to harmonise numbering) have been made to the FPRs. However, the Financial Regulations make reference to a [“Financial Limits Annex”](#) which is not in the current Constitution. It is therefore proposed to add a **NEW** Section H to the FPR for the Financial Limits Annex, and Table 11 has been inserted after paragraph 12.6.124 to aid easier identification of financial limits.
- 3.59 The Contract Procedure Rules are proposed to **MOVE** from Section 19 of the existing Constitution to paragraph 12.7 and be re-named the Procurement and Contract Procedure Rules to avoid there being two CPRs (Council Procedure Rules and Contract Procedure Rules) and more accurately reflect their purpose.
- 3.60 As a consequence of the Procurement Act 2023, these rules have been updated.
- 3.61 The presentation of the PcCPR has been harmonised with the rest of the Constitution, with tables updated. As with the Financial Regulations, it is proposed that the list of defined terms at section B is deleted, with any required terms being defined in the glossary at Section 2 of the Constitution. It is also proposed that the provisions on Exemptions becomes part of the main body of the PaCPR at **NEW** Section L to avoid

the need for reference to the “Exemptions Annexe”. A **NEW** Section M is also proposed to set out the Procurement Thresholds and authorisation limits. This includes **NEW** tables of authorisation levels for Goods and Services, the Light Touch Regime and Works.

- 3.62 The existing Annex 1 – Roles and Responsibilities of Officers and Members – is proposed to be **DELETED** as this is now included within Section B of the PaCPR. Annex 2 (Letting of School Based Contracts) therefore is re-numbered as Annex 1.

Section 13 – Decision-making

- 3.63 This section sets out how various decisions will be taken by the Council. The existing Section 13 has been **EXPANDED** to include references to the Code of Corporate Governance and statutory duties such as the requirement to have due regard to the need to prevent people from being drawn into terrorism and fiduciary duties owed to third parties (such as Teesside Pension Fund). It explains the principles under which decision-making powers are delegated to different people, and the framework within which they are expected to make decisions. It also prescribes what information must be provided to a decision maker before the decision is made, and how decisions are recorded.
- 3.64 Full details of who makes decisions in relation to specific functions is however set out in the Responsibility for Functions section of the Constitution – Section 10.
- 3.65 Section 13 also defines Key Decisions and the provisions which relate to them (such as general exception and special urgency) and cross references to the Access to Information Procedure Rules at Section 14, which set out how intention to take such decisions is published and how they are recorded.
- 3.66 It also confirms what the nature of Significant Decisions is – these being the decisions which are still required to be published – and the nature of Operational Decisions, which do not need to be formally recorded and published.

Section 14 – Access to Information Procedure Rules

- 3.67 This section sets out how and when members of the public may attend Council meetings, and public rights of access to information relating to the Council. It is proposed to be **MOVED** from Section 16 in the current Constitution to Section 14 as a consequence of other sections being merged together, reducing the number of headline sections. As with the rest of the Constitution, presentation and language has been harmonised.
- 3.68 The Access to Information Procedure Rules now cross reference the Forward Work Programme and other provisions for meetings and access to agendas etc. For example, at 14.6.1 it now reflects that Members can receive papers electronically only if they have given consent for the summons to be transmitted electronically.

- 3.69 The proposed rules also provide more detail as to public access to meeting documentation and also cover Member rights of access to information relating to Executive Decisions.
- 3.70 **NEW** paragraphs 14.15 to 14.16 make provision for private meetings of the Executive (as opposed to public meetings where confidential information is considered in private) in accordance with the statutory provisions.
- 3.71 The contents of decision records cross reference the Decision-Making section of the Constitution, while call-in is cross referenced to the Scrutiny Procedure Rules. Distinctions are also drawn between the provisions for executive decisions and for non-executive decisions. **NEW** Paragraph 14.21 addresses how decisions will be recorded in minutes or decision records while additional information is also provided at paragraph 14.27.1 as to how Members can exercise their “Need to Know” information.

Section 15 – Budget and Policy Framework Procedure Rules

- 3.72 The final section of the proposed Constitution is the Budget and Policy Framework Procedure Rules. These are largely **UNCHANGED** from the existing Constitution, save in respect of harmonisation of presentation and language.

4. Other potential alternative(s) and why these have not been recommended

- 4.1 The CMDWG has discussed and considered a variety of options for the Constitution throughout the evolution of the refresh. The proposed refreshed Constitution is considered to meet the Council’s statutory duties and responsibilities, and to be more user friendly. While changes could be made to any of the content of the draft Constitution following further discussion and consultation, no alternative document has been prepared.

5. Impact(s) of the recommended decision(s)

Topic	Impact
Financial (including procurement and Social Value)	No direct financial impacts are anticipated however it is recommended that the Council consider the existing provisions for procurement and authorisation limits to ensure they are proportionate to the current circumstances of the council.
Legal	The proposed changes address the issues identified with the existing Constitution to make it more robust and fit for purpose. However, the desired outcome can only be achieved if the implementation of the new Constitution is supported by appropriate buy-in from Members and Officers alike. The requirement to have a document containing the “standing orders” of the Council

	is set out in is set out in the Local Authorities (Standing Orders) (England) Regulations 2001. Further, the Council has acknowledged the need to update its Constitution and scheme of delegation within its recent Annual Governance Statements. Adopting the proposed Constitution will ensure that positive progress is made to strengthen the governance arrangements of the Council.
Risk	Failing to adopt the proposed refreshed Constitution may open the Council to increased risk of successful challenge to its decision.
Human Rights, Public Sector Equality Duty and Community Cohesion	None – save for presenting the document in a more streamlined and accessible format
Climate Change / Environmental	None
Children and Young People Cared for by the Authority and Care Leavers	None
Data Protection	None

Appendices

1	Proposed Constitution
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Background papers

Body	Report title	Date
Full Council	Review of the Constitution	18 September 2023

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