

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

15 NOVEMBER 2018

REPORT OF SENIOR MANAGEMENT TEAM

CABINET / COUNCIL DECISION

Leader of the Council – **Councillor Cook**

REVIEW OF THE COUNCIL'S CONSTITUTION

1. SUMMARY

All Local Authorities in England have a statutory duty under the Local Government Act 2000 to maintain an up to date Constitution and to make their Constitution publicly available.

In addition, Article 15 of the Stockton on Tees Borough Council Constitution imposes a duty on the Monitoring Officer:

"... on behalf of and in consultation with the Chief Executive, to monitor and review the operation of the Constitution on a regular basis, in order to ensure that the aims and principles of the Constitution are given full effect and that the Scheme of Delegation, Rules of Procedure, Codes and Protocols and all of the other constituent elements are up to date and reflect legislative changes, the outcome of reviews or inspections and decisions taken by the Council"

The purpose of this report is to update Cabinet on the current review of the Constitution, to propose a timetable for the conclusion of the review and the process for approval by Members of an updated version of the Constitution and an implementation date.

2. RECOMMENDATIONS

1. That Cabinet recommend that Council approve the updated Constitution.
2. That Cabinet recommend that Council approve a timetable for adoption of the revised Constitution with an implementation date of 22nd May 2019, that being the date of the next Annual Meeting.

3. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or
- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

Disclosable Pecuniary Interests

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

4. **Reasons for the Recommendations/Decision**

To update Members on the updated Constitution.

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DETAIL

1. The Council adopted a new constitution for the Authority in October 2008 and since that time it has been reviewed and updated on an annual basis by the Monitoring Officer, with up-to-date versions maintained on the Councils website and intranet.
2. In 2017 The Monitoring Officer determined that a more fundamental review may be appropriate in light of the fact that the current constitution had been in place in its current format since 2008 and had been subject to nine year's of updates. This led to the current constitution becoming, over time, unwieldy and difficult to navigate. Changes were also required to reflect the creation of Tees Valley Combined Authority and legislative changes such as the introduction of the General Data Protection Regulations and other legislative updates.
3. Following an initial internal desk-top exercise it was decided to engage external specialist advice in order to carry out a full health check of the constitution and seek proposals for ensuring any review encompasses best practice and improvements. Bevan Brittan a law firm who specialise in providing advice to the public sector were appointed in October 2017 to carry out an initial constitution review exercise. Bevan

Brittan have significant experience of advising local authorities on governance and decision making and have undertaken many reviews of constitutions for council clients.

4. At the meeting of Cabinet held on 15th February 2018 the progress to date was noted and Cabinet agreed the parameters and process for progressing the Constitution review as set out in that report.
5. In overview, the current review has focussed on ways in which the constitution could be re-structured and updated. Work has been concentrated on developments in four areas:
 - Form and Structure
 - Updating and future-proofing
 - Re-drafting of the Decision Making provisions
 - Re-drafting of the Budget Policy and Financial Procedure Rules

As agreed in February report to Cabinet, the proposed changes are more about the presentation and documentation of our current constitutional arrangements rather than substantive changes to processes or decision-making.

6. That work has continued and officers have progressed the work within the agreed parameters. Further meetings have been held with Bevan Brittan in order to finalise the draft and further engagement with Members has taken place through Members Policy Seminar sessions on 19th February 2018 and 30th October 2018 and through Audit Committee on 26th February 2018.
7. As agreed, all proposed changes have been carefully mapped so that Members can see where provisions have been moved to other parts of the Constitution or removed. A report setting out this mapping and also the proposed changes to the Constitution is attached as *Appendix 1*.
8. The proposed updated Constitution is available on the Members area of intranet.
9. The proposed revisions to the Constitution detailed in this report demonstrate that the Council is actively keeping the Constitution under review and also meeting its duty to give effect to changes required to ensure it is compliant with legislation, coherent and consistent with best practice.
10. It should be noted that this review is not an end in itself. The Monitoring Officer will continue to keep the operation of the Constitution under review and is required to make minor changes where necessary. Any requirement for major alterations such as those related to legislative changes or emerging best practice would be subject to a formal review process and report to Cabinet and Council.

Next steps

11. It is proposed that Cabinet recommend the revised Constitution to Council for consideration at the Council meeting on 12th December 2018 with an implementation date following the Annual Meeting on 22nd May 2019.
12. During the first quarter of 2019, communication and training will take place with officers to embed the updated Constitution. The Local Schemes of Delegation within directorates will be updated to tie in with the updated Constitution and a training programme will be created to be used during the Members induction programme following the election.

FINANCIAL AND LEGAL IMPLICATIONS

- 13 Section 37 of the Local Government Act 2000 requires the Council to keep its Constitution under review. The cost of the review of the Constitution is covered by the ongoing revenue budget for the HR, Legal and Communications Directorate.

RISK ASSESSMENT

- 14 This report is categorised as low to medium risk.

EQUALITIES IMPACT ASSESSMENT

- 15 It is not considered that this report gives rise to any requirement for an assessment to be undertaken.

COUNCIL PLAN IMPLICATIONS

- 16 Organisational and operational effectiveness.

CONSULTATION

- 17 The proposals for consultation of the Constitution are as set out in paragraph 6.

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Background Papers: The working draft of the proposed Constitution is available on agenda attached to this report.

Ward(s) and Ward Councillors: Not Ward Specific

Property Implications: None