

**AGENDA ITEM**

**REPORT TO COUNCIL**

**12 DECEMBER 2018**

**REPORT OF SENIOR  
MANAGEMENT TEAM**

**REVIEW OF THE COUNCIL'S CONSTITUTION**

**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"

Council are asked to consider the recommendations as set out in this report.

**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 22<sup>nd</sup> May 2019, that being the date of the next Annual Meeting.
3. That Council authorise the Director of HR, Legal and Communications in consultation with the Leader to make any required minor changes or such changes that may be necessary to comply with any changes to statute prior to the implementation date of 22<sup>nd</sup> May 2019.

**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 15<sup>th</sup> 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 19<sup>th</sup> February 2018 and 30<sup>th</sup> October 2018 and through Audit Committee on 26<sup>th</sup> 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 the 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. After the implementation date 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.
11. On 15<sup>th</sup> November 2018 Cabinet considered the progress and outcome of the review and agreed to recommend to Council the adoption of the revised Constitution and to agree an implementation date following the Annual Meeting on 22<sup>nd</sup> May 2019. A copy

of the relevant minute extract from Cabinet held on 15<sup>th</sup> November 2018 is attached to this report at **Appendix 2**.

- 12 If Council agree the revised constitution then 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.

#### **Name of Contact Officer:**

**Beccy Brown**

**Director HR, Legal and Communications**

**Telephone No: 01642 527003**

**Email Address: [beccy.brown@stockton.gov.uk](mailto:beccy.brown@stockton.gov.uk)**

**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