

AGENDA ITEM

REPORT TO COUNCIL

18 NOVEMBER 2020

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CONSTITUTION ANNUAL REVIEW

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, para 1.37 of the Stockton on Tees Borough Council Constitution includes the following provisions:

Para 1.37 “The Monitoring Officer on behalf of and in consultation with the Managing Director, will monitor and review the operation of the Constitution on a regular basis, in order to ensure that it is up to date and may make amendments to ensure that legislative references are updated, it reflects the Councils structures and decision-making requirements and any other required changes are made.”

Para. 2.4 “The Council will adopt the Council’s Constitution and approve amendments to it (except where specifically delegated to the Monitoring Officer)”

The purpose of this report is to seek Council approval for the changes required to update the version of the Constitution which has been in place since May 2019.

RECOMMENDATIONS

It is recommended that:

1. Council approve the proposed amendments identified in the report and supporting papers.

DETAIL

1. The Council adopted a new constitution for the Authority in December 2018 with an implementation date from the Annual Meeting held on 22 May 2019.
2. In line with the requirements of the Constitution a review has been undertaken to ensure that it remains up to date. The proposed amendments to the Constitution have been collated and a full “track changes” version of the May 2019 Constitution is available as a background paper to his report. The complete document with track changes details all proposed amendments including minor typographical and grammatical changes, updates to Council Structures and job titles and portfolios.
3. The following paragraphs provide further information on the substantive changes that are proposed.

Cabinet

4. Page 18 - Para 2.13 (g)

It is proposed to remove the reference to Cabinet considering expenditure plans in respect of designated government grants. This reference was intended to identify the fact that, where Government grants are received where there is discretion on their use, Cabinet will determine this use. It was included to distinguish discretionary grants from grants that are received for a specific use. In the latter case the defined grant usage is straightforwardly implemented. It is accepted that the wording is unclear and in fact the duty for Cabinet to consider and recommend to Council the Budget and MTFP, which is already included in 2.13 (b), covers the Cabinet duty in respect of approval of discretionary grant expenditure.

Audit and Governance Committee

5. Page 29 – Para 2.49 (e)

It is proposed to remove the reference to the Audit and Governance Committee considering budget reports and the effect of government announcements on the Council's finances. It has been identified that this has not been the process for many years, if ever. Regular financial update reports are presented to Cabinet and these reports would include consideration of the effect of government announcements.

6. Page 29 - Para 2.49 (f)

It is proposed to take out the reference to the MTFP but retain the reference to the Treasury Management Strategy. The Audit and Governance Committee review the performance against the Treasury Management Strategy and receive an annual report, rather than approving it each year. It has been longstanding custom and practice to take the Treasury Management Strategy, the Investment Strategy and the Capital Strategy for approval each year as appendices to the main Budget Report in February.

Standards Panel

7. Page 30 – para 2.52(b)

It is proposed to delete para (b) as it does not accurately reflect the terms of reference of the Panel. Para (b) be replaced with the following "If referred from the Monitoring Officer to consider and determine complaints into allegations of a breach of the Members Code of Conduct".

8. Page 30 – para 2.52(d)

It is proposed to remove the words "Having concluded a hearing" and replace with "Having considered a complaint,"

9. Page 30 – para 2.52(g)

It is proposed to delete this paragraph as the Standards Panel has no authority to consider and determine findings of breach in relation to Parish/Town Councils. Following investigation by the Monitoring Officer and any finding of breach then a report may be referred to the Parish/Town Council for them to consider what action, if any, to take;

Appointments Panel

10. Page 34 – paras (c), (d), (e), (f), (g) and (h)

It is proposed to delete these paragraphs as the Appointments Panel has never exercised such functions. Implementation of pay awards are agreed through national collective agreements and the implications of such agreements are considered through the MTFP process.

Planning Committee

11. Page 38 – para 2.85 (b) second bullet point

It is proposed that this bullet point should be amended to more accurately reflect the process that must be followed when a member makes a request. A request is required to be approved in accordance with the details set out in the Planning Code by the Director of Finance, Business and Development Services.

Council Procedure Rules

12. Page 59 – para 3.14

It is proposed to remove the requirement for annual training as the currently required training requirements as set out in the Constitution for specific committees are deemed to be sufficient. The requirement for training in paras 2.89, 2.94 and 2.101 of the Constitution require members to have undertaken training but not on an annual basis. Whilst it is acknowledged that maintaining up-to-date training for all committee members is extremely important, it is proposed that this can be done most effectively if it is scheduled as a need is identified due, for example, to changes in membership or legislative changes.

Budget Policy and Financial Procedure Rules

13. Page 98 para 3.190

It is proposed to add the Capital Strategy and Investment Strategy to the list of strategies that are recommended for approval by Cabinet to Council. These are new strategy documents and it is appropriate for them to be referenced in this section of the Constitution.

14. Page 102 para 3.216

It is proposed to remove the requirement for virement between directorates to be done in consultation with Cabinet Members. In accordance with the existing Schemes of Delegation Directors have authority to make financial decisions and any virements would be within the context of the overall approved MTFP.

Code of Conduct

15. In January 2019 The Committee on Standards in Public Life published the findings of its review into local government ethical standards. It had been asked to look into concerns about the Local Government standards regime and having done so made 26 recommendations including that the LGA should produce a Model Code of Conduct for all Local Authorities. Since then the LGA have worked with Hoey Ainscough Associates to develop a Model Code through a series of workshops, stakeholder events and consultations. The proposed Model Code was presented to Members at the Member Policy Briefing on 22 September 2020. It is proposed to replace the current Member Code of Conduct with the new Model Code of Conduct. A copy of the Model Code is available here <https://www.local.gov.uk/local-government-association-model-member-code-conduct-consultation>

16. The new Model Code of Conduct is scheduled for approval at the LGA Board on 3rd December 2020, subject to this approval and assuming there are no changes from the version presented to Members at the Member Policy Briefing on 22 September 2020 the Model Code will be used to replace the current Code in the Constitution.

COMMUNITY IMPACT IMPLICATIONS

17. No assessment is considered necessary. There are no policy, strategy or service changes involved.

CORPORATE PARENTING IMPLICATIONS

18. There are no corporate parenting implications arising from this report.

FINANCIAL IMPLICATIONS

19. There are no specific financial implications arising from this decision.

LEGAL IMPLICATIONS

20. Section 37 of the Local Government Act 2000 requires the Council to keep its Constitution under review.

RISK ASSESSMENT

21. This report is categorised as low to medium risk.

WARDS AFFECTED AND CONSULTATION WITH WARD/COUNCILLORS

22. Decisions relating to this item are not ward specific and have no impact on individual wards. No consultation with ward Councillors has taken place.

BACKGROUND PAPERS

23. A copy of the Constitution with full track change amendments is available on the Members area of the intranet <https://intranet.stockton.gov.uk/members/constitution-and-procedure-rules/> or from the contact officer below.

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