

North Tyneside Council

Report to Council

Date: 28 November 2019

Title: In-Year Review of the Constitution

Portfolio(s): Elected Mayor

Cabinet Member(s): Mrs N Redfearn

Report from Service

Area: Law and Governance

Responsible Officer: Bryn Roberts, Head of Law and Governance (Tel: (0191) 6435339)

Wards affected: All Wards

PART 1

1.1 Executive Summary:

In previous years the annual review of the Constitution has taken place ahead of the Annual Council Meeting in May. This year it is proposed that the review is undertaken in two parts to enable certain proposed changes to be brought forward to the November Council meeting with the remaining items (such as the annual update of the Officer Delegation Scheme) following in early 2020 for consideration at the Annual Council meeting on 21 May 2020.

This report contains recommendations on proposed amendments to the Constitution in relation to the following items:

- Budget and Policy Framework – relating to the budget setting process
- Approval of the Authority's Accounts – relating to the role of Audit Committee
- Common Seal – regarding arrangements for authorising and affixing the seal
- Parental Leave Policy for Elected Members – to consider the adoption of a discretionary policy setting out entitlement to maternity, paternity, shared parental and adoption leave and relevant allowances
- Contract Standing Orders – relating to Framework Agreements.

1.2 Recommendation(s):

It is recommended that Council:

- (1) approve the proposed changes to the Constitution set out in Appendix 1 to this report and refer the approved changes to the Elected Mayor for her consent in accordance with Article 15 of the Constitution; and
- (2) note the revised dates of meetings of Cabinet and Overview, Scrutiny and Policy Development Committee as part of the budget setting process, as set out in section 1.5.2 of this report.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 20 September 2019.

1.4 Council Plan and Policy Framework

This report has no direct relevance to the Our North Tyneside Plan priorities.

1.5 Information:

The items for consideration in this first part of the review are as follows:

1.5.1 Budget and Policy Framework

The Budget and Policy Framework section of the Constitution deals with both the budget setting process and the process for the adoption of the Authority's major policies and plans. In effect, the setting of the budget and the adoption of the major plans and strategies is the shared responsibility of the Executive and full Council.

Current Arrangements

Insofar as the budget setting process is concerned, up to this point in time the Authority has required the Executive's initial budget proposals to be presented to full Council before the 8th February each year. There is, however, no legal requirement for these proposals to be presented by this date.

Currently, the Budget and Policy Framework requires the budget setting process of the Authority to be dealt with at two meetings of full Council with provision made for a third Council meeting should full Council object to the Executive's draft budget proposals. In fact, the first and second meetings of full Council are one meeting. The first meeting, at which the Executive's initial budget proposals are received by Council, is adjourned without a vote on the budget proposals being taken.

At the first meeting the Members are afforded an opportunity to ask questions about the Executive's draft budget proposals. This has resulted in technical questions being asked which in the past has required the Chief Finance Officer to answer such questions in the chamber.

In the period between the first Council meeting and the reconvened Council meeting, usually within 2 weeks, Members are permitted to submit objections to the Executive's draft budget proposals up to 2 working days before the second Council meeting.

At the reconvened Council meeting any objections to the Executive's draft budget are presented to Council. Members vote on a simple majority basis to either object to the Executive's budget proposals and request the Executive to reconsider its budget proposals in light of the objection or, if no objections are approved, to approve the Executive's draft budget proposals.

At a further meeting of full Council, Council will consider any revisions made to the Executive's budget proposals in light of the objection(s) made by full Council or if there are no revisions, the disagreement the Executive has with the Council's objection. The Executive's draft budget will prevail unless two thirds of Members present vote to impose the full Council's budget.

Proposed Arrangements

It is apparent when comparing the budget setting process of the Authority with the process adopted by other authorities operating with an Executive that a) those authorities set a budget at one meeting of full Council, and b) none of those Executives present their draft budget to full Council before 8 February.

There is no reason why the Authority cannot set its budget at one continuous meeting of full Council, the budget setting meeting, as is the case with other authorities. At that Council meeting, the Executive's draft budget proposals, including its consideration of any comments or recommendations from the Overview, Scrutiny and Policy Development Committee can be fully considered and debated by full Council. Council can decide at the meeting by a simple majority vote to either a) object to the Executive's draft budget proposal or b) approve the Executive's draft budget proposals.

There will only be a need to call a second meeting of full Council if, at the Council meeting, Members object to the Executive's draft budget proposals. Council will, at any second meeting, consider any revisions made to the Executive's budget proposals, or if there are no revisions, the disagreement the Executive has with the Council's objection. The Executive's draft budget will prevail unless two thirds of Members present vote to impose the full Council's budget.

There is also no legal reason why the Executive's initial budget proposals cannot be presented to full Council after 8 February. All that is required is sufficient time be given for Council to consider those draft budget proposals, and if necessary, for a second Council meeting to be arranged if an objection to the Executive's draft budget proposals is approved by full Council. Any budgetary timetable will have to factor in the fact that the Authority must set a budget each year no later than 11 March.

Attached to this report at Annex 2 of Appendix 1 is the proposed Budget and Policy Framework. The proposed Framework is lawful and enables both the Executive and full Council to have a role in the budget setting process as required by law. It provides an opportunity for full Council to object to the Executive's draft budget proposals and ultimately, if there is a two thirds majority, for full Council to impose its budget.

The role of the Overview, Scrutiny and Policy Development Committee will be enhanced if the amended budget setting process is accepted. The proper scrutiny of the Executive's draft budget is part of the remit of the Committee and the Committee exercises this role on behalf of full Council. Technical questions about the Executive's draft budget proposals can be asked by that Committee and the Mayor or appropriate Cabinet Member is obliged to respond to any report or recommendations made by the Committee in relation to the budget proposals.

In terms of the major plans and strategies that are included in the Budget and Policy Framework, the proposed Framework as with the budget setting process affords full Council an opportunity to object to the Executive's draft plan or strategy and for the Executive to reconsider the plan/strategy. Ultimately, the draft plan/strategy can be amended by full Council if two thirds of Members vote to do so.

It is proposed that the proposed Budget and Policy Framework at Annex 2 of Appendix 1 replaces the existing section 4.7 of the Constitution.

It is also intended that the dates of the following budget related meetings in the Council's programme of meetings be altered if approval is given to the budget setting Council meeting being held at one meeting on 20 February 2019:

Meeting	Original date	Revised date
Cabinet (to consider final budget proposals)	20 January 2020*	3 February 2020
Overview and Scrutiny (to consider final proposals)	21 January 2020	4 February 2020
Cabinet (to approve final proposals having considered Overview and Scrutiny comments)	27 January 2020	10 February 2020

*please note the Cabinet meeting scheduled to take place on 20 January 2020 to consider ordinary business will still go ahead.

1.5.2 Approval of the Authority's Accounts

The Accounts and Audit Regulations 2015 require the Authority to produce an audited Annual Financial Report (formerly referred to as the Statement of Accounts) at the end of each financial year.

The Authority is required to produce draft accounts by 31 May and to publish the Annual Financial Report by 31 July.

The Annual Financial Report must be considered and approved by a resolution of the relevant committee or full Council.

The Annual Financial Report is externally audited. The Audit Results Report produced by the Authority's external auditors summarises the findings from the annual audit, identifying key issues that those charged with the governance of the Council should consider before the auditors issue their opinion, conclusion and certificate.

In accordance with current practice, the Annual Financial Report is submitted to full Council for approval before 31 July. The Audit Results Report is submitted to full Council at the same time as the Annual Financial Report.

The Annual Financial Report and Audit Results Report are also submitted to the Audit Committee, usually a day or so prior to the day of the full Council meeting at which they are considered.

The terms of reference of the Audit Committee include the following:

- To review key information relating to the Authority's Statement of Accounts;
- To review the accounting policies used to compile the Authority's Statement of Accounts; and
- To review the external auditor's opinion and reports on the Statement of Accounts, and monitor management action in response to any issues raised in relation to the accounts by external audit.

The Accounts and Audit Regulations 2015 introduced changes for all local authorities in their deadlines for producing, reporting and approving the statement of accounts to be introduced for the 2017/18 financial year. The timetable for finalising the accounts has been brought forward two months, the previous requirement being to approve the statement of accounts by 30 September.

In order to take account of the faster closedown requirements introduced by the Regulations, to avoid duplication of reports being submitted to both the Audit Committee and full Council, to allow the accounts to be approved as close to the 31 July deadline as possible and overcome issues raised by some Members associated with the late availability of information for those meetings, it is proposed that the Audit Committee be given sole responsibility for approving the Annual Financial Report and receiving the Audit Results Report and that its terms of reference be amended accordingly.

The Accounts and Audit Regulations 2015 also require that where, following completion of an audit, a local authority receives an audit letter from the external auditor (The Annual Audit Letter summarises the key issues arising from the work that the auditor has carried out at the Council during the year) the full Council or relevant committee must meet to consider that letter as soon as reasonably practicable.

In accordance with current practice the Annual Audit Letter is submitted to full Council; however again, it is proposed that the Audit Committee is given sole responsibility for considering the Annual Audit Letter, and its terms of reference be amended accordingly.

The proposed amendments to the terms of reference of the Audit Committee are set out in Appendix 1 (item 2).

1.5.3 Common Seal

The Authority is required to complete contracts under seal in order to exercise its functions fully and effectively.

The Constitution currently requires sealing to be attested by the Chair of the Council and the Head of Law and Governance, or another person authorised by them. In practice, this means that the Chair of the Council comes into the office once per week for this purpose. In the event that sealing is required on a more urgent basis, arrangements have to be made for the Chair of the Council to come back into the office, or for the courier service to take the documents to the Chair's home.

The requirement for the Chair of the Council to attest the affixing of the seal is not founded in law and no other mayoral authorities follow this practice. Our current practice causes avoidable delays in the sealing process and is an unnecessary use of the Authority's resources. It is proposed that the Constitution is amended so that sealing is undertaken solely by the principal legal officer and their other authorised persons. The proposed changes to the wording of the Constitution are set out in Appendix 1.

Furthermore, the Constitution requires the sealing of documents to be authorised in each Ordinary Meeting of the Council. This practice is historic and is not required by law. A number of mayoral authorities no longer, or have never, followed this practice. It is proposed that we remove this requirement from our Constitution, as detailed in Appendix 1 (items 3a and 3b).

1.5.4 Parental Leave Policy for Elected Members

There is no uniform policy to support councillors who require maternity, paternity, adoption or parental leave. According to the Fawcett Society (2018 report) a lack of maternity/paternity provision or support is a real barrier for women aged 18-44 to fulfil their role as a councillor and they called for the introduction of maternity rights at all councils, to make them more accessible for women.

To respond to this situation the Local Government Association (LGA) Labour Group is encouraging all Councils to draw up a policy to support maternity and parental leave and a growing number of local authorities have either introduced such a policy (including Newcastle and Sunderland locally) or are in the process of doing so.

The policy allows councillors to step back from their duties of a councillor for up to 12 months after having a baby or adopting a child and still receive allowances and return to a position of equivalent standing on the Council, for example as a committee chair or cabinet member.

A proposed policy for North Tyneside Council, which is based on the LGA model, is appended at Annex 3. As the policy represents a change to the Members' Allowances Scheme, the Independent Remuneration Panel has been requested to make a recommendation about the introduction of a policy to full Council (see agenda item 6).

1.5.5 Contract Standing Orders

There is currently no explicit delegation to Heads of Service to authorise the use of framework agreements, i.e. agreements or arrangements between one or more contracting authorities and one or more contractors.

The proposed wording in Appendix 1, item 5 is intended to correct this omission.

1.6 Decision options:

The following decision options are available for consideration by Council:

- Option 1 - Accept all of the recommendations and proposals;
- Option 2 - Make amendments to the recommendations; or
- Option 3 - Reject some or all of the recommendations.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

The proposals presented to Council have been scrutinised by the Constitution Task Group, which is the Authority's consultative body for any changes to the Constitution and its associated documents and are the recommendations of the Monitoring Officer, who has a duty under Article 16 of the Constitution to monitor and review the Constitution.

1.8 Appendices:

- Appendix 1: Table of Draft Proposed Changes to the Constitution
- Annex 1: Existing Part 4.7 Budget and Policy Framework

Annex 2: Proposed Part 4.7 Budget and Policy Framework
Annex 3: Proposed Parental Leave Policy for Members

1.9 Contact officers:

Bryn Roberts, Head of Law and Governance (Tel. 643 5339)
Dave Brown, Law and Governance (Tel: 643 5358)
Janice Gillespie, Head of Resources (Tel.643 5701)

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- North Tyneside Council's Constitution
- North Tyneside Council's Officer Delegation Scheme
- Papers submitted to Constitution Task Group on 9 September 2019
- Reports and Minutes of those authorities which have an Elected Mayor and Cabinet system including Bristol City Council, Doncaster Metropolitan Borough Council, Leicester City Council, Liverpool City Council, Mansfield District Council, Middlesbrough Borough Council, Salford City Council and Watford Borough Council.

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

There are no financial implications arising from the proposed changes to the Constitution other than the payment of any additional Special Responsibility Allowances in respect of cover arrangements under the proposed parental leave policy, which will be met from existing budgets in Law and Governance. It is not anticipated that the cost implications of introducing the policy will be significant; however, any variations will be reported as part of the usual financial management arrangements. Any printing costs of the revised Constitution document will be met from existing budgets.

2.2 Legal

Article 16 of the Constitution requires that the Constitution will be reviewed at least annually. It also requires the Monitoring Officer to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes of the Constitution as set out in Article 1, including comparing practices in this Authority with those in other comparable authorities or national examples of best practice.

The changes that have been proposed are necessary to enable the Authority to carry out its duties and responsibilities in an appropriate and timely manner and all proposed changes comply with current legislation.

2.3 Consultation/community engagement

The proposals presented to Council have been scrutinised by the Constitution Task Group, which is the Authority's consultative body for any changes to the Constitution and its associated documents.

2.4 Human rights

The contents of the report comply with the Human Rights Act 1998.

2.5 Equalities and diversity

Copies of the Constitution documents in alternative formats and languages can be made available upon request, in line with the Authority's Interpreting and Translation Policy.

2.6 Risk management

To mitigate the risks associated with using an out of date Constitution the proposed amendments set out in Appendix 1 to this report should be approved.

2.7 Crime and disorder

There are no crime and disorder implications directly arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications directly arising from this report.

Officers and Members are encouraged to access the revised documents electronically to minimise the number of paper copies produced.

PART 3 - SIGN OFF

- Chief Executive
- Head(s) of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Head of Corporate Strategy and Customer Service

Constitution and Associated Documents – Proposed Changes

	Section and Reference	Existing Text	Proposed amendment including revised text if appropriate
1.	Part 4, Rules of Procedure, 4.7 Budget and Policy Framework	See Annex 1 – The existing Part 4.7 Budget and Policy Framework appearing in the Constitution.	The existing Part 4.7 Budget and Policy Framework would be replaced with the proposed Budget and Policy Framework process set out in Annex 2
2.	Part 3 – Terms of Reference of Council and Committees 2. Audit Committee	Not applicable	<p>Addition to current terms of reference:</p> <p>To approve the annual statement of accounts, including any subsequent amendments;</p> <p>To consider the External Auditor’s report on the audit of the annual statement of accounts (the audit completion report);</p> <p>To receive the External Auditor’s annual audit letter.</p>
3a.	Part 2, Article 15 - Finance, Contracts and Legal Matters 5. Common Seal of the Authority	The Common Seal of the Authority will be kept in a safe place in the custody of the principal legal officer. A decision of the Authority, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the principal legal officer should be sealed. The affixing of the Common Seal will be attested by the principal legal officer or some other person authorised by him/her and the Chair of Council.	The Common Seal of the Authority will be kept in a safe place in the custody of the principal legal officer. A decision of the Authority, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the principal legal officer should be sealed. The affixing of the Common Seal will be attested by the principal legal officer or some other person authorised by him/her.
3b.	Part 3, Section A, Part 2, Paragraph 7	2. Ordinary Council Meetings will: 7. Authorise the sealing of documents (i.e. approving the Common Seal).	Paragraph 7 is to be removed.

	Section and Reference	Existing Text	Proposed amendment including revised text if appropriate
4.	Part 9 – Members’ Allowance Scheme	Not applicable	<p>Addition to Members’ Allowances Scheme:</p> <p>Parental Leave Policy</p> <p>The Council adopted the parental leave policy set out in Appendix # on [<i>date of Council approval</i>] for implementation from #</p> <p>(see Annex 3 for wording of proposed policy)</p>
5.	Contract Standing Orders Section 10 - Framework Agreements	Not applicable	<p>Addition to Contract Standing Orders:</p> <p>Where a framework agreement has been identified by Strategic Procurement, Heads of Service can authorise the use of these frameworks in consultation with the Procurement Manager.</p>

Annex 1

4.7 Budget and Policy Framework – current text

1. Introduction

The Budget and the Policy Framework is the collective name given to the budget and a number of the major plans and strategies that either the Government or Full Council itself have decided must be considered by Full Council before they are finally approved.

This part of the Constitution sets out how Full Council will decide on which plans and strategies are in its Policy Framework. It also sets out how it will make decisions on the content of the budget and those plans and strategies contained in the Framework where such plans and strategies are brought forward by the Cabinet.

When Full Council has approved the budget and/or any of these plans or strategies, then it is the responsibility of the Cabinet to implement them insofar as it is required by law to do so. The Cabinet can finalise any other plans, strategies or policies itself, although it is open to the Cabinet to refer any of these to Full Council for a final decision if the Council accepts that responsibility.

The following paragraphs are intended to give effect to the provisions of the Statutory Standing Orders (as set out in Local Authorities (Standing Orders) (England) Order 2001 or any Orders or amendments that supersede them as they affect the Budget and the Policy Framework.

2. Content of the Budget and Policy Framework

The Budget and Policy Framework will comprise:

- a) the Authority's budget;
- b) those plans and strategies which the Government determines by regulation must be included; and
- c) those additional plans and strategies that the Full Council agree should be included.

A list of which plans and strategies are included in the Policy Framework can be found in Article 4 Full Council.

The Full Council will review the composition of the Policy Framework annually (usually at the Annual Council meeting) and the relevant provisions of Article 4 of this Constitution will be amended to take account of the outcome of any review. The Full Council will also publish a five-year timetable for consideration of those plans and strategies included in the Framework.

3. The Budget

The process described below aims to ensure that appropriate and effective consultation takes place with all Members and other stakeholders on the content of the Budget.

a) Initial proposals

At least 3 months before the calculations on which the Council Tax requirement and associated level of Council Tax need to be finalised the Cabinet will produce initial proposals. These initial proposals will be accompanied by:

- (i) a summary of information that has been taken into account in producing the initial proposals (including specific reference to consideration of any reviews/studies previously carried out by the Overview, Scrutiny and Policy Development Committee);
- (ii) detailed information on how it is intended to consult with Members and others;
- (iii) a clearly stated timetable for the consultation and the preparation of final proposals for consideration by the Overview, Scrutiny and Policy Development Committee and the Full Council. This timetable will include provision for the Cabinet's Budget proposals (including the Council Tax calculation of estimates and amounts) to be submitted to the Full Council for its consideration by no later than 8 February; and
- (iv) proposals on the extent of virement permitted within the Budget as part of an annual review of the Authority's Financial Regulations.

The initial proposals and accompanying information will then be referred to the Overview, Scrutiny and Policy Development Committee. The Overview, Scrutiny and Policy Development Committee will at this stage examine the Cabinet's consultation proposals and timetable and make recommendations on these, where it is considered appropriate, to the Elected Mayor.

b) Submission of proposals

The Elected Mayor is under a duty to consider any recommendations made by the Overview, Scrutiny and Policy Development Committee and, where it is considered appropriate, amend the consultation process and/or timetable accordingly. The Elected Mayor is also under a duty to ensure that the proposals for the Budget include reference to all recommendations of the Overview, Scrutiny and Policy Development Committee together with the Elected Mayor's responses to them.

The Elected Mayor will be authorised to finalise proposals in respect of the Budget once the agreed consultation has been completed.

Details of these finalised proposals will be referred to the Overview, Scrutiny and Policy Development Committee together with the relevant background information on which the proposals have been based. It is the responsibility of the Elected Mayor and relevant officers to ensure that the Overview, Scrutiny and Policy Development Committee has sufficient background information to enable it to evaluate the proposals against that background information.

Under normal circumstances the proposals will then be referred for consideration to the Cabinet, together with any recommendations and/or observations from the Overview, Scrutiny and Policy Development Committee. In exceptional circumstances, the Elected Mayor may undertake this role.

c) Full Council's receipt of Budget proposals – 1st Meeting

The proposals amended by the Cabinet or otherwise, will be submitted to the Full Council, together with details of any recommendations of the Overview, Scrutiny and Policy Development Committee and the Elected Mayor or Cabinet's response to these.

The submission of the Elected Mayor and Cabinet's proposals to Full Council enables the process for the consideration of those proposals to commence and the detailed consideration of those proposals to take place.

Between the submission of the proposals to the first meeting and the further consideration that will take place at the second meeting, Members are able to submit objections (amendments) to the proposals of the Elected Mayor and Cabinet. Any objections received will be considered at the second meeting.

The reports containing the Elected Mayor and Cabinet's proposals in relation to any Council Tax Requirement and estimates of amounts for all aspects of the Elected Mayor and Cabinet's proposed spending and resource plans for the General Fund Revenue Budget (including the Dedicated Schools Grant), the Capital Plan (including prudential indicators and a proposed Minimum Revenue Provision Policy) and the Treasury Management Statement and Annual Investment Strategy will be submitted to the first meeting. At that meeting, Members will have the opportunity to ask questions about the Elected Mayor and Cabinet's proposals.

d) Full Council's consideration of Budget proposals – 2nd Meeting

Any Member(s) proposing objections to the Cabinet's proposals must submit these in writing to the Chief Executive or his or her nominee, by no later than 4.00 pm two working days prior to the second budget meeting of the Full Council at which the proposals are to be considered.

The Chief Executive or their nominee will make arrangements to have all proposed objections circulated to all Members by noon on the day before the Full Council meeting at which such proposals are to be considered.

The Full Council will make one of the following decisions on the basis of a simple majority:

- (i) to approve the Cabinet's proposals; or
- (ii) to inform the Elected Mayor of any objections it has to the whole or any part of the proposals and instruct the Elected Mayor to reconsider the proposals in the light of these objections.

e) After 2nd Full Council meeting

- (i) Where the Full Council approves the Cabinet's proposals, a notice of this decision will be prepared by the Head of Law and Governance and published within three working days. The notice of the decision will be dated and will state that the decision will be effective from the date of the Full Council meeting. A copy of the notice will also be given to the Elected Mayor.
- (ii) Where the Full Council objects and instructs the Elected Mayor to reconsider the whole or any part of the proposals, the nature of any objections must be specified and a notice of the decision will be prepared by the Head of Law and Governance and published within three working days. A copy of the notice will also be given to the Elected Mayor.

f) Reconsideration by Cabinet

Where the Elected Mayor receives notice of objection and instruction to reconsider the proposals, then within 10 working days the Elected Mayor must consult with the Cabinet and may:

- (i) in whole or in part revise the proposals to take account of any objection and instructions proposed by the Full Council identifying reasons for such revisions; and/or
- (ii) determine any disagreement to any objections and instructions proposed by the Full Council and identify the reasons for such disagreement.

g) Further Full Council meeting

Before the expiry of the 10 working days, the Elected Mayor will be required to give notice of all revisions/disagreements to the Chief Executive who will convene a further meeting of the Full Council to consider these. That further meeting to be held within 7 working days of receipt of the notice.

At this further meeting, the Full Council will consider the revisions/objections and will make a final determination on the Council Tax level. Where any proposal of Full Council in respect of the Council Tax level calculations does not accord with the Cabinet's proposals (including any revised proposals submitted by the Elected Mayor) then the Cabinet's proposals will prevail unless at the meeting of Full Council a two thirds majority of the Members present vote to impose the Full Council's own proposals.

Annex 2

4.7 Budget and Policy Framework – proposed revised text

1. Introduction

The Budget and the Policy Framework is the collective name given to the budget and a number of the major plans and strategies that either the Government or Full Council itself have decided must be considered by Full Council before they are finally approved.

This part of the Constitution sets out how Full Council will decide on which plans and strategies are in its Policy Framework. It also sets out how it will make decisions on the content of the budget and those plans and strategies contained in the Framework where such plans and strategies are brought forward by the Cabinet.

When Full Council has approved the budget and/or any of these plans or strategies, then it is the responsibility of the Cabinet to implement them insofar as it is required by law to do so. The Cabinet can finalise any other plans, strategies or policies itself, although it is open to the Cabinet to refer any of these to Full Council for a final decision if the Council accepts that responsibility.

The following paragraphs are intended to give effect to the provisions of the Statutory Standing Orders (as set out in Local Authorities (Standing Orders) (England) Order 2001 or any Orders or amendments that supersede them as they affect the Budget and the Policy Framework.

2. Content of the Budget and Policy Framework

The Budget and Policy Framework will comprise:

- a) the Authority's budget;
- b) those plans and strategies which the Government determines by regulation must be included;
and
- c) those additional plans and strategies that the Full Council agree should be included.

A list of which plans and strategies are included in the Policy Framework can be found in Article 4 Full Council.

The Full Council will review the composition of the Policy Framework annually (usually at the Annual Council meeting) and the relevant provisions of Article 4 of this Constitution will be amended to take account of the outcome of any review. The Full Council will also publish a five-year timetable for consideration of those plans and strategies included in the Framework.

3. The Budget

The process described below aims to ensure that appropriate and effective consultation takes place with all Members and other stakeholders on the content of the Budget.

a) Initial proposals

At least 3 months before the calculations on which the Council Tax requirement and associated level of Council Tax need to be finalised the Cabinet will produce initial proposals. These initial proposals will be accompanied by:

- i. a summary of information that has been taken into account in producing the initial proposals (including specific reference to consideration of any reviews/studies previously carried out by the Overview, Scrutiny and Policy Development Committee);
- ii. detailed information on how it is intended to consult with Members and others;
- iii. a clearly stated timetable for the consultation and the preparation of final proposals for consideration by the Overview, Scrutiny and Policy Development Committee and the Full Council. This timetable will include provision for the Cabinet's Budget proposals (including the Council Tax calculation of estimates and amounts) to be submitted to the Full Council for its consideration; and
- iv. proposals on the extent of virement permitted within the Budget as part of an annual review of the Authority's Financial Regulations.

The initial proposals and accompanying information will then be referred to the Overview, Scrutiny and Policy Development Committee. The Overview, Scrutiny and Policy Development Committee will at this stage examine the Cabinet's consultation proposals and timetable and make recommendations on these, where it is considered appropriate, to the Elected Mayor.

b) Submission of proposals

The Elected Mayor is under a duty to consider any recommendations made by the Overview, Scrutiny and Policy Development Committee and, where it is considered appropriate, amend the consultation process and/or timetable accordingly. The Elected Mayor is also under a duty to ensure that the proposals for the Budget include reference to all recommendations of the Overview, Scrutiny and Policy Development Committee together with the Elected Mayor's responses to them.

The Elected Mayor will be authorised to finalise proposals in respect of the Budget once the agreed consultation has been completed.

Details of these finalised proposals will be referred to the Overview, Scrutiny and Policy Development Committee together with the relevant background information on which the proposals have been based. It is the responsibility of the Elected Mayor and relevant officers to ensure that the Overview, Scrutiny and Policy Development Committee has sufficient background information to enable it to evaluate the proposals against that background information.

Under normal circumstances the proposals will then be referred for consideration to the Cabinet, together with any recommendations and/or observations from the Overview, Scrutiny and Policy Development Committee. In exceptional circumstances, the Elected Mayor may undertake this role.

c) Submission of Objection(s) to the Cabinet's Budget Proposals

Any member(s) proposing objections to the Cabinet's proposals must submit these in writing to the Chief Executive or his or her nominee, by no later than 4.00pm 2 working days prior to the budget decision meeting of full Council at which proposals are to be considered. The Chief Executive or their nominee will make arrangements to have all proposed objections circulated to all Members by noon on the day before the full Council meeting at which such proposals will be considered.

d) Budget Decision Meeting of Council

The proposals amended by the Cabinet or otherwise, will be submitted to the Full Council, together with details of any recommendations of the Overview, Scrutiny and Policy Development Committee and the Elected Mayor or Cabinet's response to these as well as any objections received to Cabinet's proposals.

The submission of the Elected Mayor and Cabinet's proposals to Full Council for its consideration will include the following information for the following financial year:-

- a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992 (calculation of council tax requirements);
- b) estimates of other amounts to be used for the purposes of such a calculation;
- c) estimates of such a calculation; or
- d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992 (precepts).

Following consideration of those estimates or amounts, Full Council can by a simple majority of those Members present and voting:

- approve the Cabinet's proposals; or
- inform the Elected Mayor of any objections it has to the whole or any part of the proposals and instruct the Elected Mayor to reconsider the proposals in the light of these objections.

If full Council approves Cabinet's proposals the budget will be set for the next financial year.

e) Notification of Objection to Budget Proposals

Where the full Council objects and instructs the Elected Mayor to reconsider the whole or any part of the proposals, the nature of any objections must be specified and a notice of the decision will be prepared by the Head of Law and Governance and published within three working days. A copy of the notice will also be given to the Elected Mayor.

f) Revision of Budget Proposals

Where Full Council gives instructions in accordance with paragraph d) above the Elected Mayor must within 10 working days beginning on the day after the date on which the Elected Mayor receives the instructions on behalf of the Executive, consult Cabinet and may -

- a) give notice to Full Council of any revision of the estimates or amounts as amended by Cabinet which have been reconsidered in accordance with Full Council's requirements, with Cabinet's reasons for any amendments made to the estimates or amounts, for Full Council's consideration; or
- b) give notice to Full Council of any disagreement that the Cabinet has with any of Full Council's objections and Cabinet's reasons for any such disagreement.

g) Further Budget Decision Meeting of Council (If Necessary)

Subject to paragraph h) below within 7 working days of the expiry of the 10 working days referred to in paragraph f) above, Full Council must meet to consider the revisions/objections and will make a final determination on the Council Tax requirements and amounts required to be stated in a precept.

Where any proposal of full Council in respect of the Council Tax level calculations does not accord with the Cabinet's proposals (including any revised proposals submitted by the Elected Mayor) then the Cabinet's proposals will prevail unless at the meeting of Full Council a two thirds majority of the Members present vote to impose the Full Council's own budget envelope.

h) Excepted Budget Proposals

Paragraphs d) to g) shall not apply in relation to:

(a) calculations or substitute calculations which an Authority is required to make in accordance with Part I of the Local Government Finance Act 1992; and (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with Part I of the Local Government Finance Act 1992.

Annex 3

Parental Leave Policy for Members

Introduction

This Policy sets out Members' entitlement to maternity, paternity, shared parental and adoption leave, and relevant allowances as agreed by North Tyneside Council on # for implementation from #.

The objective of the Policy is to ensure that insofar as possible Members are able to take appropriate leave at the time of birth or adoption, that both parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for portfolio-holders in receipt of Special Responsibility Allowances (SRA) during any period of leave taken.

Improved provision for new parents will contribute towards increasing the diversity of experience, age and background of local authority councillors. It will also assist with retaining experienced councillors – particularly women – and making public office more accessible to individuals who might otherwise feel excluded from it.

There is at present no legal right to parental leave of any kind for people in elected public office.

1. Leave Periods

1.1 Members giving birth are entitled to up to 6 months maternity leave from the due date, with the option to extend up to 52 weeks with the agreement of the Head of Paid Service if required.

1.2 In addition, where the birth is premature, the Member is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 months' period. In such cases any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial 6 months.

1.3 In exceptional circumstances, and only in cases of prematurity of 29 days or more, additional leave may be taken with the agreement of the Head of Paid Service, and such exceptional leave shall not be deducted from the total 52-week entitlement.

1.4 Members shall be entitled to take a minimum of 2 weeks paternity leave if they are the biological father or the nominated carer of their partner/spouse following the birth of their child(ren).

1.5 A Member who has made shared parental leave arrangements through their employment is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from the Council.

1.6 Where both parents are Members, leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity.

1.7 A Member who adopts a child through an approved adoption agency shall be entitled to take up to six months adoption leave from the date of placement, with the option to extend up to 52 weeks with the agreement of the Head of Paid Service if required.

1.8 Any Member who takes maternity, shared parental or adoption leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month period unless the Council meeting agrees to an extended leave of absence prior to the expiration of that six month period.

1.9 Any Member intending to take maternity, paternity, shared parental or adoption leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council, both in terms of the point at which the leave starts and the point at which they return.

1.10 Any Member taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

2. Basic Allowance

2.1 All Members shall continue to receive their Basic Allowance in full whilst on maternity, paternity or adoption leave.

3. Special Responsibility Allowances

3.1 Members entitled to a Special Responsibility Allowance shall continue to receive their allowance in full in the case of maternity, paternity, shared parental or adoption leave.

3.2 Where a replacement is appointed to cover the period of absence that person shall receive an SRA on a pro rata basis for the period of the temporary appointment.

3.3 The payment of Special Responsibility Allowances, whether to the primary SRA holder or a replacement, during a period of maternity, paternity, shared parental or adoption leave shall continue for a period of six months, or until the date of the next Annual Meeting of the Council, or until the date when the Member taking leave is up for election (whichever is soonest). At such a point, the position will be reviewed, and will be subject to a possible extension for a further six-month period.

3.4 Should a Member appointed to replace the Member on maternity, paternity, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than one Special Responsibility Allowance shall apply.

3.5 Unless the Member taking leave is removed from their post at an Annual Meeting of the Council whilst on leave, or unless the Party to which they belong loses control of the Council during their leave period, they shall return at the end of their leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began.

4. Resigning from Office and Elections

4.1 If a Member decides not to return at the end of their maternity, paternity, shared parental or adoption leave they must notify the Council at the earliest opportunity. All allowances will cease from the effective resignation date.

If an election is held during the Member's maternity, paternity, shared parental or adoption leave, and they are not re-elected, or decide not to stand for re-election, their basic allowance and SRA if appropriate will cease from the Monday after the election date when they would technically leave office.