

North Tyneside Council

Report to Council

24 September 2020

Title: Annual Review of the Constitution

Portfolio(s): Elected Mayor

Cabinet Member(s): N Redfearn

Report from Service

Area: Law and Governance

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

Wards affected: All

PART 1

1.1 Executive Summary:

This report is the result of the annual review of the Constitution and associated documents undertaken by the Monitoring Officer. The report contains recommendations on proposed amendments to the main Constitution (Audit Committee terms of reference) and Contract Standing Orders to ensure that they continue to be fit for purpose and provide a framework which ensures the efficient discharge of the Authority's business by allowing for decision making at the appropriate level.

In relation to the Audit Committee, the proposed changes will ensure that the role and functions of the Committee reflect the best practice set out in CIPFA's Position Statement on Audit Committees in Local Authorities. The changes do not substantially alter the duties of the Committee as set out in the existing Terms of Reference; however the wording in CIPFA's model Terms of Reference clearly highlights that the Audit Committee is a key component of the Authority's governance framework and includes a firm statement on the purpose of the Audit Committee, in addition to the core functions required to be discharged, and the characteristics of a good Audit Committee.

Proposed changes to Contract Standing Orders are being made to support delivery of the Covid19 Recovery Workstream for Supply Chain by improving the opportunities for local businesses to trade with the Authority and supporting their longer-term sustainability. They will also simplify the procurement process for internal and external stakeholders by reducing the number of thresholds that apply to seeking quotations and ensure compliance. The additional exemptions will reduce the requirement to waive contract standing orders for items which cannot be subject to a competitive tendering process.

These changes to Contract Standing Orders will bring the Authority more in line with other Authorities who have a more flexible approach with procurements under OJEU levels.

1.2 Recommendation(s):

It is recommended that Council approve the proposed changes to the Constitution and Contract Standing Orders 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.

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 7 August 2020.

1.4 Council Plan and Policy Framework

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

1.5 Information:

- 1.5.1 In accordance with Article 16 of the Constitution, the Monitoring Officer has a key role in reviewing the operation of the Constitution and in making recommendations to Council on ways in which it could be amended to ensure that it achieves its purpose as set out in Article 1.
- 1.5.2 Council will recall that an in-depth review of the main Constitution was undertaken in 2013 and further changes to the Constitution have been approved at each of the last six Annual Council meetings. As the Annual Council meeting this year was cancelled in the light of the Covid-19 pandemic, this is the first available Council meeting to consider the proposed changes following the latest review.
- 1.5.3 As part of the current review the Senior Leadership Team and Members of the Council were requested to submit any proposed amendments to the Constitution and associated documents.
- 1.5.4 The Constitution Task Group has considered the proposed changes to the Constitution and Contract Standing Orders that have been received for consideration as part of the annual review, and those changes that have been approved by the Task Group are attached as Appendix 1 to the report.
- 1.5.5 The Constitution and associated documents will continue to be kept under review and updated to reflect any changes in the organisational structure of the Authority or any legislative changes. The Council has previously authorised the Head of Law and Governance, in consultation with the Chair of the Constitution Task Group, to make such changes when the power remains unaltered and these need not be reported to Council.

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:

1.7.1 Option 1 is recommended for the following reasons:

1.7.2 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 – Proposed changes to the Constitution and Contract Standing Orders approved by the Constitution Task Group.

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.6435701)

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 Contract Standing Orders
Papers submitted to Constitution Task Group on 11 August 2020

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 and Contract Standing Orders that can not be absorbed within existing budgets. Any printing costs of the revised documents will be met from existing budgets.

2.2 Legal

The annual review of the Constitution documents, including a review of the 'local choice' elements of the Policy Framework, is required by the Constitution. 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. The Head of Law and Governance has been fully consulted in the drafting of this document and all proposed changes comply with current legislation.

Any specific legal implications arising from the proposed changes to the Constitution and Contract Standing Orders are set out in Appendix 1 to this report.

2.3 Consultation/community engagement

All Members of the Council and the Senior Leadership Team were invited to put forward proposed changes to the Constitution documents.

The Constitution Task Group has considered the documentation in detail. Any specific consultation/community engagement implications arising from the proposed changes to the Constitution and Contract Standing Orders are set out in Appendix 1 to this report.

2.4 Human rights

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

Any specific human rights implications arising from the proposed changes to the Constitution and Contract Standing Orders are set out in Appendix 1 to this report.

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.

Any specific equalities and diversity implications arising from the proposed changes to the Constitution and Contract Standing Orders are set out in Appendix 1 to this report.

2.6 Risk management

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

Any specific risk management implications arising from the proposed changes to the Constitution and Contract Standing Orders are set out in Appendix 1 to this report.

2.7 Crime and disorder

Any specific crime and disorder implications arising from the proposed changes to the Constitution and Contract Standing Orders are set out in Appendix 1 to this report.

2.8 Environment and sustainability

Any specific environment and sustainability implications arising from the proposed changes to the Constitution and Contract Standing Orders are set out in Appendix 1 to 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 x
- Head of Service x
- Mayor/Cabinet Member(s) x
- Chief Finance Officer x
- Monitoring Officer x
- Head of Corporate Strategy and Customer Service x