

North Tyneside Council

Report to Council

Date: 19 May 2022

Title: Annual Review of the Constitution

Portfolio(s): Elected Mayor	Cabinet Member(s): N Redfearn
Report from Service Area:	Law and Governance
Responsible Officer:	Jacqueline Laughton Assistant Chief Executive (Tel: 0191 6435724)
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 and the previous Monitoring Officer.

The report contains recommendations on proposed amendments to the Authority's Code of Conduct for Elected Members and Co-opted Members ("the Code of Conduct") and Arrangements for Dealing with Allegations of Breaches of the Code of Conduct for Members and Co-opted Members ("the Local Arrangements), Contract Standing Orders and Officer Delegation Scheme as set out in Appendix 1 of this report.

The annual review of the Constitution and associated documents ensures that they continue to be fit for purpose and provides a framework that ensures the efficient discharge of the Authority's business by allowing for decision making at the appropriate level.

1.2 Recommendation(s):

It is recommended that Council

- a) approve the proposed changes to the Constitution set out in Appendix 1 to this report to this report and refer the approved changes to the Elected Mayor for her consent in accordance with Article 16 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 14 April 2022.

1.4 Council Plan and Policy Framework

This report does not align directly to any of the priorities in the Council Plan.

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 of the Constitution.
- 1.5.2 In accordance with the established arrangements, any changes proposed to the Constitution and its associated documents are considered by the Constitution Task Group and then any changes approved by the Task Group are submitted to the Annual Council meeting for formal approval.
- 1.5.3 The proposed amendments to the Constitution including the proposed changes to the Contract Standing Orders and Officer Delegation Scheme reflect the changes made to the organisational structure of the Authority that were approved by Cabinet on 28 March 2022. The proposed amendments to the Code of Conduct and Local Arrangements reflect the Local Government Association's Model Code of Conduct for Councillors.

Contract Standing Orders

- 1.5.4 The proposed changes to the Contract Standing Orders in addition to reflecting organisational changes take account of changes in legislation, including compliance with legislation and are reflective of current practice.

Officer Delegation Scheme

- 1.5.5 The proposed changes to the Officer Delegation Scheme take account of organisational change and in particular the deletion of the roles of Director of Environment Housing and Leisure and Director of Law and Governance. The delegations that had previously sat with the Director of Environment Housing and Leisure have been re-allocated between the Directors of Environment, Housing and Property Services, Public Health, Regeneration and Economic Development and Commissioning and Asset Management. It is proposed that the delegations that were held by the Director of Law and Governance will be held by the Assistant Chief Executive. The proposed changes to the Officer Delegation Scheme reflect these changes.
- 1.5.6 Further changes the Officer Delegation Scheme are likely to take account of the proposed adjustment to the role of the Director of Resources later in the municipal year. Any changes to the scheme will be reported to Council at the appropriate time.

Code of Conduct and Local Arrangements

- 1.5.7 The proposed changes to the Code of Conduct and Local Arrangements are not major changes but rather improve, or expand on, what is already included in the Code and Arrangements. Amendments to the Code of Conduct include definitions of certain types of conduct such as 'bullying', 'harassment' and 'discrimination' and emphasises the importance of Members registering Disclosable Pecuniary Interests in a timely manner in accordance with the Localism Act 2011 and the potential consequences of failing to do so. It also clarifies the difference between requests for confidentiality for those making a complaint and anonymous complaints. The Local Arrangements introduce a two stage Assessment Criteria that will be applied by the Monitoring Officer, in consultation with the Independent Person, when deciding if a complaint should proceed to be investigated.

- 1.5.8 The Constitution Task Group has considered the proposed changes to the Contract Standing Orders, Officer Delegation Scheme the Code of Conduct and Local Arrangements that been received for its consideration as part of the annual review of the Constitution, and those changes that have been approved by the Task Group are attached as Appendix 1 to the report.
- 1.5.9 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.

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:

- 1.7.1 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 Codes and Protocols, Contract Standing Orders and Officer Delegation Scheme approved by the Constitution Task Group

1.9 Contact officers:

Jacqueline Laughton, Monitoring Officer; tel. (0191) 643 5724
John Barton, Principal Lawyer and Deputy Monitoring Officer; tel. (0191) 643 5354

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:

Papers submitted to Constitution Task Group on 25 April 2022
Reports to Standards Committee on 3 November 2021 and 7 April 2022
Report to Cabinet 28 March 2022

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 Code of Conduct, Local Arrangements, Contract Standing Orders, or the Officer Delegation Scheme that cannot be absorbed within 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 Monitoring Officer and Law and Governance have 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 Code of Conduct, Local Arrangements, Contract Standing Orders and Officer Delegation Scheme are set out in Appendix 1 to this report.

Notwithstanding that any changes to the Constitution can only be approved by full Council, of the Code of Conduct and the Local Arrangements form part of it, the Localism Act 2011 in addition is clear that the approval of the Code of Conduct is a matter for full Council.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

The Senior Management Team were invited to put forward proposed changes to the Constitution documents.

The Constitution Task Group has considered the documentation in detail.

2.3.2 External Consultation/Engagement

There has been no external consultation in relation to the proposed changes to the Authority's Constitution as set out in the report and Appendix 1.

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 Codes and Protocols, Contract Standing Orders and Officer Delegation Scheme 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 Codes and Protocols, Contract Standing Orders and Officer Delegation Scheme are set out in Appendix 1 to this report.

2.6 Risk management

To mitigate the risks associated with using out of date Codes and Protocols, Contract Standing Orders 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 Code of Conduct/Local Arrangements, Contract Standing Orders and Officer Delegation Scheme 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 Code of Conduct/Local Arrangements, Contract Standing Orders and Officer Delegation Scheme 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 Code of Conduct/Local Arrangements, Contract Standing Orders and Officer Delegation Scheme 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
- Director(s) of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Assistant Chief Executive X