
CONSTITUTION

Responsible Cabinet Member - Councillor John Williams, Leader

Responsible Director - Paul Wildsmith, Director of Corporate Services

SUMMARY REPORT

Purpose of the Report

1. To seek Members' approval for the revised Constitution.

Summary

2. The Council reviews the Constitution annually and provides Members with an updated version of the Constitution. There have been a number of changes during the last year, including changes to the Cabinet Portfolios and Scrutiny Committees, changes to the Scheme of Delegation following the Council restructure, changes to Contract Procedure Rules and Council Procedure Rules following the Corporate Governance Working Group and the creation of Xentrall (the Darlington Stockton Partnership) with delegation of powers to Stockton Borough Council.
3. All these changes have resulted from decisions which have already been decided individually by Council or Cabinet as appropriate and therefore do not require individual decisions.
4. These changes together with a number of cosmetic revisions designed to reduce the overall number of pages in the Constitution, have been made. This report seeks Members' approval for those revisions.

Recommendation

5. It is recommended that Members' approve the revised Constitution

Reasons

6. The recommendation is supported to ensure that the Council has an up to date and complete record of its decision making processes which is available to Members and the public.

Paul Wildsmith
Director of Corporate Services

Background Papers

No Background papers were used in the preparation of this report.

C.Whitehead : Extension 2306

S17 Crime and Disorder	There are no implications for the Council's s17 duty in this report
Health and Well Being	This report has no impact on the health and wellbeing of any individual
Sustainability	This report seeks to reduce the overall size and number of pages of the Constitution, it otherwise has no impact on sustainability.
Diversity	This report does not have any implications for our duties in relation to race, gender and disability
Wards Affected	This report affects all wards equally
Groups Affected	This report affects all groups equally
Budget and Policy Framework	This report does not affect the Council's budget and policy framework. The Constitution requires approval by full Council.
Key Decision	This is not an executive decision
Urgent Decision	This is not an executive decision
One Darlington: Perfectly Placed	The revisions are designed to make the Constitution more accessible and therefore to assist those who wish to influence Council decision making in accordance with target NI4

MAIN REPORT

Background

7. Every year the Council updates the Constitution at the Annual Council meeting and changes made during the year are incorporated at that time. A review of the Constitution was begun in 2007 and some initial changes were presented in a report to Council on 18th May 2007.
8. During 2007-8 municipal year Council has approved a number of further changes to the Constitution. The revised Constitution is **Appendix 1** to this report.

Changes to Council, Cabinet and Scrutiny

9. After the elections in 2007 the Council decided to embark on a wider review of Corporate Governance within the Council which resulted in a number of changes including new Cabinet Portfolios and a change to the remit of Scrutiny Committees. These changes were presented to Council for approval in July 2007. The Corporate Governance Working Group also recommended a number of changes to the Council, Cabinet and Scrutiny Procedure Rules. All the changes made were approved by Council and the changes to the Constitution were approved including the precise wording of the amendments to the Procedure Rules. A change was also made to the Protocol for Dealing with Planning Matters which was approved by Council. Those changes were presented to Council in March 2008. This report attaches a copy of the Constitution which includes those changes to ensure that the annual version of the Constitution reflects the in year changes.

Changes to the Scheme of Delegation

10. In October 2007 the Council approved a restructure of the Council's staffing arrangements, including the dissolution of the Department of Development and Environment and the incorporation of those functions into the Council's other departments, the creation of the new Assistant Chief Executive with responsibility for regeneration and planning. These changes resulted in significant changes to the Council's Scheme of Delegation. These were approved by Council at its meeting in October 2007. This report attaches a copy of the Constitution which incorporates those changes.

Changes to the Contract Procedure Rules

11. The Council has conducted a review of the way that it carries out its contracting function. The outcome of the review and the new Contract Procedure Rules were presented to Council in February 2008. A copy of the new rules and the associated changes to the Constitution were approved by Council at that time, and have been incorporated into the copy of the Constitution attached to this report.

Changes to reflect the creation of the Darlington Stockton Partnership (Xentrall)

12. In November 2007 Cabinet approved the delegation of certain functions to Stockton Borough Council to enable the Darlington Stockton Partnership now Xentrall, to be implemented. The Constitution records delegations to and from other public bodies in the section currently called Joint Arrangements in the Constitution. This section will record the delegation of functions to Stockton Borough Council. In addition a number of small

changes to the scheme of delegation to Paul Wildsmith. For example his delegation currently include the power

(a) To pay all salaries, wages and other emoluments to Council employees

13. Now that the responsibility for the payment of staff has transferred to the partnership this power has been delegated to Stockton Borough Council within the terms of the agreement governing the partnership. This power will therefore be amended to say :-

To facilitate the payment of all salaries, wages and other emoluments to Council employees through the arrangements with Stockton Borough Council.

14. These changes reflect the decision taken by Cabinet to delegate functions that sit by law with Cabinet, and which have been delegated by the decision last November to Stockton Borough Council. There may be a need for further changes to the detailed procedures set out within the constitution as the procedures which govern the conduct of the partnership are further developed.
15. The Constitution attached to this report reflects the joint arrangements with Stockton Borough Council and the changes to the Scheme of Delegation.

Cosmetic Changes

16. The Constitution was prepared for the implementation of the new political structures, and was based heavily on the Model Constitution prepared by the then DETR. Many Constitutions nationally were also based on the Model and this continues to be the format that is most commonly used. Although the Model was helpful in getting us up and running with the new structures, it is apparent with use that there are some parts of the Constitution which are rarely if ever referred to, and some which are duplicated within the constitution and as a consequence they can become out of date and inaccurate.

17. The Constitution is currently divided into 7 Parts as follows:-

Part 1: Summary and Explanation
Part 2: Articles of the Constitution
Part 3: Responsibility for Functions
Part 4: Rules of Procedures
Part 5: Codes of Conduct
Part 6: Members Allowances
Part 7: Management Structure

18. The proposed areas of change to the Constitution are as follows :-

Part 1: Summary and Explanation (Appendix 1)

19. This was significantly revised in 2007 to be more user friendly and easy to read there are some additions to this section, including a specific section on what the Constitution is and how it can be amended. These changes are primarily to enable the removal of the Articles (see below).

Part 2: Articles of the Constitution

20. These contain information which is almost all available elsewhere in the Constitution. The articles which were rarely used increase the size of the overall document and can become out of date because the material is not regularly used. These articles have therefore been deleted with those parts which are required to be inserted elsewhere redistributed.

21. There are currently 16 Articles and 5 schedules to the articles.

Article 1 – The Constitution

This has been incorporated into the summary

Article 2 – Members of the Council – the information was already available within the summary

Article 3 – Citizens and the Council – this information was already available in the summary

Article 4 – The Full Council – the policy framework has been inserted into the Responsibility for Functions section as this shows the matters reserved to full Council

Article 5 – Chairing the Council – this is incorporated into the summary and the Council Procedure Rules

Article 6 – Scrutiny Committees – Scrutiny Committees have always had their own Procedure Rules which duplicated this article

Article 7 – The Cabinet – Cabinet has always had its own procedure rules which duplicated this article

Article 8 – Regulatory and other Committees – these are listed within the full list of all terms of reference for each committee which is in the responsibility for functions section

Article 9 – The Standards Committee – the terms of reference of Standards Committee now sits with the remit for other committees in the responsibility for functions section

Article 10 – Area Committees and Other Forums – the Council does not have area committees, details of the forums are set out in the responsibility for functions section

Article 11 – Joint Arrangements – this reflects joint arrangements with other authorities such as the Darlington Stockton Partnership – and is set out in the responsibility for functions section

Article 12 – Officers – This sets out the powers of the statutory officers which were duplicated in the scheme of delegation

Article 13 – Decision-Making – this sets out the principles of good decision making and the meaning of key decision. The principles are set out in the summary and introduction and the key decision definition has always been duplicated in the Cabinet Procedure Rules

Article 14 – Finance, Contracts and Legal Matters – these are set out in detail in the procedure rules relating to finance and contracts which are duplicated here with the risk of being out of date

Article 15 – Review and Revision of the Constitution – this has been incorporated into the introduction

Article 16 – Suspension, Interpretation and Publication of the Constitution - this has been incorporated into the introduction

Schedule 1 – Description of Executive Arrangements – this has always been set out in the responsibility for functions section

Schedule 2 – Roles and Responsibilities of Members – the job descriptions of members are now in the responsibility for functions section

Schedule 3 – Councillors' General Information – this lists the contact details for members which is available via the internet and is quickly out of date and therefore will be deleted from the Constitution

Schedule 4 – Appointments to Outside Bodies by Council – this has been incorporated into the responsibility for functions section

Schedule 5 – Appointment to Outside Bodies by Cabinet - this has been incorporated into the responsibility for functions section

Part 3: Responsibility for Functions (Appendix 2)

22. This section was changed in appearance and updated in May 2007. It will incorporate those parts of the articles which have transferred to it. The review will make no change to the powers that are currently delegated or the relationship between the various decision making bodies. The intention is to ensure that the relationships are more easily understood, and it is clear who can make what decisions. Changes will include further updating of all references to statute to ensure that they are up to date.
23. The format adopted in May 2007 is as follows:-

Explanation of Non-Executive, Local Choice and Executive Functions
Schedule 1 – Council Committees
Schedule 2 – Executive
Schedule 3 – Scrutiny Committees
Schedule 4 – Officers Scheme of Delegation
Schedule 5 – Appointments to Outside Bodies by Council and Cabinet

Officers Scheme of Delegation

24. The officer scheme of delegation is amended to ensure accuracy and where possible powers will be summarised together to reduce the length of the list. There will be no changes to the powers delegated which have not been previously approved by either Cabinet or Council as appropriate. Changes will ensure that all delegations specify whether the power has been delegated by the Cabinet or Council. Only Cabinet can delegate executive functions and therefore it must be clear when any changes to the scheme of delegation are proposed which powers are delegated by Council and which by Cabinet. The scheme of delegation will also specify which powers are granted to officers directly by statute and which are delegated by Member bodies.

Part 4: Procedure Rules

25. The changes to the Procedure Rules are as detailed above and previously approved by Council. The rules which have been changed during 2007-8 are highlighted in bold.
1. **Council Procedure Rules**
 2. Access to Information Procedure Rules
 3. Budget and Policy Framework Procedure Rules
 4. **Cabinet Procedure Rules**
 5. **Scrutiny Procedure Rules**
 6. Financial Procedure Rules
 7. **Contracts Procedure Rules**
 8. Property Procedure Rules
 9. Officer Employment Procedure Rules (Appendix 5)

Part 5: Codes of Conduct

26. The changes to the Codes are as detailed above and previously approved by Council. The Codes which have been changed during 2007-8 are highlighted in bold.

Code of Conduct for Members

Code of Conduct for Employees and Confidential Reporting Policy

Protocol for Councillors and Officers Dealing with Planning Matters

Protocol for Members and Officer Dealing with Licensing Matters

Protocol for Member/Officer Relations

Part 6: Members Allowance Scheme

27. Members approved a new Allowance Scheme during 2007-8 following a report from the Independent Remuneration Panel. This scheme was approved in March 2008.

Part 7: Management Structure

28. Details of the Council's management structure are available on the Internet. The Constitution does not provide sufficient detail about the management structure to make the section useful. It is not updated when changes occur with the result that it is quickly out of date. It is recommended that Part 7 be deleted.