
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 incorporating in year changes and seeking approval for changes to Contracts Procedure Rules, and consequential changes to the scheme of delegation and Financial Procedure Rules.

Summary

2. The Council reviews the Constitution annually. There have been a number of changes during the last year, which have resulted from decisions which have already been made individually by Council or Cabinet as appropriate and therefore do not require individual decisions.
3. In addition, there are a number of other issues which have arisen during the year which it was felt would be opportune to consider at this annual review stage and these are detailed in the main report.
4. These changes together with a number of cosmetic revisions designed to reduce the size and 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:
 - (a) Approve the proposed changes to the Contract Procedure Rules, Financial Procedure Rules and Scheme of Delegation.
 - (b) 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.

Shirley Burton: Extension 2233

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
Efficiency	This report does not have any direct impact on efficiencies

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, together with any additional changes were are considered necessary.
8. It is intended that the Constitution this year will be produced in a A5 format and available electronically for Members to access via a link to their desktop.

Changes to Cabinet

9. In view of the financial challenges facing the Council in the future, Cabinet considered the need to further improve efficiency within the Council and recommended to Full Council that the existing Resources Portfolio be amended to include Efficiency and that this also be included as a collective key role in all Cabinet Portfolios. This change was agreed by Council at its meeting held on 26th March, 2009.
10. Cabinet agreed at its meeting held on 6th January, 2009, to establish a Sub-Committee, consisting of three Cabinet Members, to consider any objections received, as part of the Traffic Regulation Order process, in preparation for the introduction of Civil Parking Enforcement.

Changes to Scrutiny

11. In relation to Scrutiny, it is suggested that the functions in relation to cultural issues be transferred from the Health and Well Being Scrutiny Committee to the Economy and Environment Scrutiny Committee and it is also suggested that this be implemented from the next Municipal Year.
12. The Council is required to have one of its Scrutiny Committees designated as the Crime and Disorder Scrutiny Committee. Given the remit of the existing committees it is sensible that this function sits with the Neighbourhood Services Scrutiny Committee. This change will enable the committee to co-opt other members to the committee, and will also give the committee responsibility for scrutinising the work of the Crime and Disorder Reduction Partnership.
13. As Members will be aware, the Local Government and Public Involvement in Health Act 2007 s119 introduced the power for Scrutiny Committees to consider issues raised by individual members of the public through their local Councillors. The provisions in relation to this Act came into force from 1st April 2009.
14. In line with this, a report was submitted to Council on the 26th March, 2009, and approval was given to the procedure for dealing with a Councillor Call for Action and for the necessary changes to be made to the Constitution.
15. The government has made it clear that Scrutiny Committees will also have responsibilities in relation to the Scrutiny of the LSP. The Local Government and Public Involvement in Health Act introduced new powers for Scrutiny committees including a new duty on the relevant partners to co-operate (s106), a power for Scrutiny committees to review LSP

targets (s105) and a power on the part of Scrutiny Committees to request information (s121). These powers automatically sit with Scrutiny Committees but changes will be inserted into the section of the Constitution entitled General Role of the Council's Scrutiny Committees which highlights these additional powers.

Changes to the Scheme of Delegation

16. The revised Contract Procedure Rules were adopted by Council on 28th February 2008. The Contract Procedure Rules were revised to increase and enhance member's role in procurement and improve the Councils' procurement practices.
17. The revised Contract Procedure Rules have now been in place a year and on the whole have been working well. Through the more comprehensive application of the revised rules it has come to light that a number of small changes need to be made to further enhance the rules. Changes are set out in the revised Contract Procedure Rules (**Appendix 1**).
18. In the process of checking and amending the Contract Procedure Rules the Financial Procedure Rules and the Scheme of Delegation to Officers were also checked to ensure there were no inconsistencies. This checking process has resulted in some small changes required in both of these documents as a consequence of the changes made to the Contract Procedure Rules.
19. The Contract Procedure Rules have been amended as follows: -
 - (a) Paragraph 7– has been amended to include for all tenders that exceed £75,000 the tender documentation must be seen by both Legal Services and Corporate Procurement Unit (CPU) before dispatch.
 - (b) Section covering Exemptions, Collaborative and e.Procurement Arrangements has been split to make it easier to understand. No changes have been made to the meaning of the paragraphs in this section.
 - (c) Paragraph 28 – The second sentence has been amended to remove the word 'by' and replace it with 'to', this error was missed when proof reading the revised Contract Procedure Rules in February 2008.
 - (d) Paragraph 49 has been amended to say 'No quotation required under £500'. This is simply to ensure that a written quotation is not required for the most minor purchases where it is impractical. In practice there are very few payments at this level because almost all purchases are made under a wider contract framework eg stationery.
 - (e) Paragraph 93 has been amended to say 'other party' instead of 'contractor or supplier' to ensure that it is clear it includes all contractors including consultants.
 - (f) Paragraph 94 relates to the signing of contracts under £75,000. The Contract Procedure Rules currently state that all contracts that fall into this category have to be signed by the Relevant Director and the Borough Solicitor, this is proving to be an unwieldy process to manage and not practicable. It is proposed that paragraph 94 be changed to read that all contracts up to the value of £75,000 are signed by the Relevant Director, their Authorised Signatory or an Authorised Signatory in Legal Services. All contracts above £75,000 must be sealed and signed by the Borough Solicitor.
 - (g) The section on Prevention of Corruption has been amended to ensure it is consistent with the Council's Code of Conduct for employees by referring to that document.
 - (h) Paragraph 104 – 107 - Declaration of Interests, these paragraphs have been removed and the paragraph now refers to the Council's Code of Conduct for employees.

- (i) Section on Managing Contracts, an additional paragraph added stipulating that Contracts can only be extended if the Terms and Conditions allow for this action to be taken and that the Contractor has complied with the requirements of the contract. This is to provide additional advice to officers who are in doubt about whether they can extend contracts.
- (j) Section on Risk Assessment & Contingency Planning, the first paragraph has been removed as it refers to the use of Business Cases which have been replaced by the Capital Process Review Documentation.

Financial Procedure Rules

- 20. In the process of checking and amending the Contract Procedure Rules the Financial Procedure Rules were also checked to ensure there were no inconsistencies. This checking process has resulted in some small changes required to this document.
- 21. The Financial Procedure Rules have been amended as follows: -
 - (a) Paragraph 78 has been removed as it is now covered by paragraph 49 in the Contract Procedure Rules
 - (b) Paragraph 79 has been removed as it is covered by (E) 2 in the Scheme of Delegation to Officers, Director of Community Services.

Scheme of Delegation to Officers

- 22. In the process of checking and amending the Contract Procedure Rules the Scheme of Delegation to Officers was also checked to ensure there were no inconsistencies. This checking process has resulted in some small changes required to this document.
- 23. The Scheme of Delegation to Officers section (A) Financial Matters has been amended as follows: -
 - (a) (A) 3 – has been amended to reflect paragraph 18 in the Contract Procedure Rules.
 - (b) (A) 4 - has been amended to reflect paragraphs 16 & 17 in the Contract Procedure Rules.
 - (c) (A) 5 - has been amended to reflect paragraphs 37 – 44 in the Contract Procedure Rules.
 - (d) (A) 6 – has been amended to say ‘sign contracts up to the value of’
 - (e) (A) 9 – has been amended to raise the value from £35,000 to £50,000, this is to reflect what is in the Financial Procedure Rules and to ensure consistency.

Changes to Protocols

- 24. Following a review of the procedure by the Standards Committee in relation to the handling of complaints against Members, a revised procedure was submitted to and approved by Full Council at its meeting held on 26th March, 2009. This revised procedure has been implemented and incorporated into the Codes and Protocols Section of the Constitution.

Outcome of Consultation

- 25. No consultation was carried out in the production of this report.