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**CONSTITUTION**

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**Responsible Cabinet Member - Councillor John Williams, Leader**

**Responsible Director - Paul Wildsmith, Director of Corporate Services**

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**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. Council approves the Constitution and is responsible for delegation of decisions relating to non executive functions. Cabinet approval is required for any changes relating to executive functions. This report seeks Members' approval for those revisions and the Constitution will be referred to Council for final approval of the revised Constitution.

**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.

A copy of the revised Constitution is available for inspection electronically.

Catherine 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 always 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 a key decision
Urgent Decision	This is not an urgent 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 and changes made during the year are incorporated at that time, together with any additional changes considered necessary.
8. It is intended that the Constitution this year will be available electronically for Members to access via a link to their desktop. A small number of hard copies are printed for those who are required to take copies to meetings.

### Changes to Cabinet

9. Following the review of support to the third sector Cabinet agreed at its meeting held on 15th June 2010 to establish a panel to inform decision making in relation to grants. It has also transferred the power currently delegated to the Cabinet Member with the Efficiency and Resources Portfolio in relation to Community Grants to the Cabinet Member for Communities and Engagement, and to grant an additional delegated power to award discretionary rate relief to the Cabinet Member for Communities and Engagement.
10. Cabinet approved delegation of powers to the Leader to operate as part of the Leaders' Board. These powers have been added to the powers delegated to individual Executive Members within the Constitution.
11. Following on from consideration of the report on the establishment of the Leaders' Board by Cabinet in March, early indication from the new Coalition Government is that the Board may be abolished. In response to this, a change is required to the delegated power to the Leader to ensure that the delegated authority be transferred to any future successor body. In addition there is a separate item on the agenda of this meeting seeking approval for a further delegated power for the Leader in relation to the North East Smart Ticketing Initiative. This will be incorporated into the Constitution, if approved, alongside the delegation in relation to the regional strategy. The amended delegated power is as follows:-

'The Leader (or in his absence his nominated representative), in his capacity as this Council's representative on the Leaders' Board, **or any future successor body**, be authorised to

- (a) exercise all the necessary executive powers and functions relating to the preparation and revision of the Regional Strategy for the North East, as prescribed in Part 5 of the Local Authority, Economic Development and Construction Act 2009.
  - (b) **exercise all necessary executive powers and functions, on behalf of the Council, relating to the North East Smart Ticketing Initiative (NESTI).**
12. Executive powers relating to the trading standards powers through the 'Scambusters' scheme, were delegated to Redcar and Cleveland Borough Council. This will appear in the Constitution under the section on Joint Arrangements.

## Changes to Scrutiny

13. In relation to Scrutiny, The Local Authority Economic Development and Construction Act s31 requires Councils to designate one of its officers as the statutory Scrutiny Officer to carry out the following functions:-
  - (a) to promote the role of the authority's scrutiny committees;
  - (b) to provide support to the authority's scrutiny committees and the Members of those committees; and
  - (c) to provide support and guidance in relation to the functions of the authority's scrutiny committees to Members, Cabinet and officers.
14. An officer designated by a local authority under this section is to be known as the authority's 'Scrutiny Officer'. A local authority may not designate either the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer to carry out this role.
15. It is proposed that the Assistant Chief Executive (Policy and Performance) will be designated as the statutory Scrutiny Officer. The Scheme of Delegation in relation to Statutory Officers will be amended after paragraph 32 to include a new paragraph 33 as follows:

### **'THE SCRUTINY OFFICER**

The Scrutiny Officer will promote the role of the authority's scrutiny committees; and will provide support to the scrutiny committees and the Members of those committees. The Scrutiny Officer will also provide support and guidance to Members of the authority, Members of the executive of the authority, and officers of the authority, in relation to the functions of the authority's scrutiny committees.'

16. There is very little guidance about how the proposed role will work in practice and therefore it is not proposed to make any further changes to the Constitution to reflect the operation of the role, until this has been discussed by Scrutiny members through the Monitoring and Co-ordination Group.

## Financial Procedure Rules

- (a) This change was approved by Council on 25th February 2010 as part of the prudential Indicators report

### **Annex 3 Treasury Management in the Public Services replace this annex with the following**

"Treasury Management in the Public Services  
Clauses to be adopted

- (i) This Council will create and maintain, as the cornerstones for effective treasury management:

1. A treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities;
2. Suitable Treasury Management Practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.
3. The Council will receive reports on its treasury management policies, practices and activities, including as a minimum, an annual strategy and plan in advance of the year, a mid year review and an annual report after its close, in the form prescribed in its TMPs.
4. The Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Director of Corporate Services, who will act in accordance with the Council's policy statement and TMPs and CIPFA's Standard of Professional Practice on Treasury Management.
5. The organisation nominates Audit Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.”

### **Scheme of Delegation to Officers**

17. A number of changes to the scheme of delegation to officers have already been approved by Cabinet or Council as appropriate. These changes include the changes to the planning delegation approved by Council on 18th March 2010. These are incorporated into the revised scheme attached at **Appendix 1**. Following on from approval at Council a further slight change has been identified to paragraph 1 (d) and (e) and the paragraph under (f) which is highlighted in bold below. This is to ensure that two objections does not include essentially the same objection submitted separately by members of the same household.

(a) where it is proposed to grant permission when more than 2 objections are received from Members of the public **resident in different properties;**

(b) where it is proposed to refuse permission when more than 2 letters of support are received from Members of the public **resident in different properties;**

‘Any such determination where it is proposed to grant permission when one or two objections are received or to refuse permission when one or two letters of support are received from members of the public **resident in different properties** to be subject to consultation with the Chair or Vice-Chair of Planning Committee.’

### **Changes to Protocols**

18. Following a review of the Protocol on Member Officer Relations, Council approved changes to the Protocol on 28th January 2010. As part of the review of planning changes were approved by Council to the Protocol for Councillors and Officers dealing with Planning Matters. The Council has previously approved the Protocol for Tees Valley

Health Scrutiny Joint Committee which should have been included within the Constitution. These revised and additional protocols have been incorporated into the Codes and Protocols Section of the Constitution.

19. A separate report to Council on this agenda sets out the Terms of Reference and Protocols for a new Joint Health Overview and Scrutiny Committee for the North East Region. If approved by Council, this Protocol will also be incorporated into the Codes and Protocols Section of the Constitution.

### **Petition Scheme**

20. A separate report to Council will set out a scheme for dealing with petitions in accordance with legislation under the Local Democracy, Economic Development and Construction Act 2009. Changes detailed in that report will be incorporated into the Constitution if approved by Council.

### **Outcome of Consultation**

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