

TITLE OF REPORT: Review of the Council's Constitution

REPORT OF: Mike Barker, Strategic Director, Corporate Services and Governance

Purpose of the Report

1. This report asks the Cabinet to recommend the Council to approve a number of amendments to the Constitution.

Background

2. The Chief Executive and Monitoring Officer are required to review the Constitution to ensure that its aims and principles are given full effect. A number of areas have been identified where some amendment is necessary.

Proposal

3. It is proposed to amend the Constitution as set out in Appendix 2.
4. The format of the Council's Financial Regulations has been revised to provide more clarity on the purpose and objectives of the regulations, the key risks and rules of each one, with a greater emphasis on broad control principles rather than detailed prescriptive processes. The revised Financial Regulations are attached at Appendix 3.
5. Each regulation will signpost the reader to the relevant detailed procedural guidance which will be available on the Intranet. It is also intended that once approved, the revised Financial Regulations on the intranet will note a responsible officer for each Regulation, who will be the first point of contact for any queries regarding interpretation or application. This officer will also be responsible for ensuring the Regulation continues to be relevant and up to date, and that effective procedural guidance to facilitate compliance is available.
6. The Council's Audit and Standards Committee considered the draft revised Financial Regulations on 4 March 2019 and supported the proposed approach.
7. The Contract Procedure Rules have undergone significant amendment. The proposal is to seek approval to invite tenders, evaluate the tenders received and award the contract upfront at the beginning of the process rather than seeking approval towards the end of the procurement process to award the contract. This will enable councillors to influence what is included in tender specifications or terms and conditions of contract as they will have greater visibility of what procurement activity is planned. There is also a proposal introduce a greater level of flexibility that will support the Council's commercial activity. These are attached at Appendix 4.

Recommendations

8. It is recommended that the Cabinet ask the Council to agree the proposed changes to the Council's Constitution as set out in Appendices 2, 3 and 4.

For the following reason:

To ensure that the Constitution remains fit for purpose and that its aims and principles are given effect.

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Policy Context

1. The Council is required by law (Local Government Act 2000) to prepare and maintain a constitution. Article 16.01 of the Council's Constitution requires the Chief Executive and Monitoring Officer to review the Constitution to ensure that its aims and principles are given full effect.

Background

2. A number of amendments have been drafted which will maintain the effective operation of the constitution, clarify certain aspects and keep it up to date.
3. The proposed amended sections of the constitution are set out in Appendix 2.
4. In addition, the format of the Council's Financial Regulations has been revised to provide more clarity on the purpose and objectives of the regulations, the key risks and rules of each one, with a greater emphasis on broad control principles rather than detailed prescriptive processes. The revised Financial Regulations are attached at Appendix 3
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7. The Contract Procedure Rules have undergone significant amendment. The proposal is to seek approval to invite tenders, evaluate the tenders received and award the contract upfront at the beginning of the process rather than seeking approval towards the end of the procurement process to award the contract. This will enable Councillors to influence what is included in tender specifications or terms and conditions of contract as they will have greater visibility of what procurement activity is planned. There is also a proposal introduce a greater level of flexibility that will support the Council's commercial activity. These are attached at Appendix 4.
8. The current Financial Regulations and Contract Procedure Rules can be viewed in the Constitution (pages 147 and 163 respectively):

<https://www.gateshead.gov.uk/article/2907/Constitution-of-the-council>

Consultation

9. No external consultation has been carried out.

Alternative Options

10. No alternative options were considered as the Local Government Act 2000 requires the Council to keep its constitution up to date.

Implications of Recommended Option

11. Resources

- a. **Financial Implications** - The Strategic Director, Corporate Resources confirms that there are no direct financial implications resulting from this report.
- b. **Human Resources Implications** – There are no human resources implications arising from this report.
- c. **Property Implications** – There are no property implications arising from this report.

12. **Risk Management Implication** - There are no risk management implications arising from the recommended option.

13. **Equality and Diversity Implications** - There are no equality and diversity implications arising from the recommended option.

14. **Crime and Disorder Implications** - There are no crime and disorder implications arising from the recommended option.

15. **Health Implications** – There are no health implications arising from the recommended option.

16. **Sustainability Implications** - There are no sustainability implications arising from the recommended option.

17. **Human Rights Implications** - The Constitution already emphasises that the Council will promote equal opportunities in carrying out its functions

18. **Area and Ward Implications** - There are no specific area and ward implications arising from the recommended option.

19. **Background Information** - The current version of the Constitution.