



Chester-le-Street District Council

REPORT TO: COUNCIL

DATE OF MEETING: 29 May 2008

REPORT OF: Head of Legal & Democratic Services

SUBJECT: Annual Review of the Council's Constitution

ITEM NUMBER:

1. Purpose and Summary

- 1.1 The purpose of this report is to review the Council's Constitution as part of the Council's commitment to continuous improvement and to ensure that such constitutional arrangements are and continue to be 'fit for purpose' until the Council ceases to exist at midnight on 31 March 2009.
- 1.2 The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to choose and its choice is as set out in the current Constitution.
- 1.3 On 26 May 2005 the Council radically revised its Constitution in order to achieve greater flexibility in the way in which the bodies of the Council operate and so create greater responsiveness to the needs of the people which the Council exists to lead and serve
- 1.4 Regular reviews are built into the process as the Constitution is very much a 'living document' and, as such by its very nature, is liable to change. This is however the last ever 'May Annual Review' (though any necessary in-year changes will of course continue to be made).
- 1.5 The Council is recommended to agree the changes set out in this report and in the Appendices attached to this report be incorporated into the revised Constitution

2. Consultation

- 2.1 Members and Chief Officers and Service Team Managers and other staff have been consulted on the manner in which the Constitution has operated since its revision in May 2005 and subsequently on an on-going basis.

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- 2.2 All have been encouraged to put forward constructive comments and suggestions for improvements, on a proactive and reactive manner, in pursuance of the Council's open learning culture.

3. Transition Plan and People and Place Priority

- 3.1 The Council's Constitution is the internal governance document which assists in the delivery of the Council's organisational goals as expressed from time to time in the Council's Corporate Plan.

4. Implications

4.1 Financial and Value for Money Statement

- 4.1.1 Staff resources will be needed, either by redeployment of existing resources or by additional resources being made available, in order to implement and embed any changes that are agreed. This will include Member and Officer training.

- 4.1.2 It is believed that this can be done within existing budgets with the amended Constitution being available both on the intranet and the internet.

4.2 Local Government Reorganisation Implications

Durham County Council takes over district council responsibilities on 1 April 2009 and Chester-le-Street District Council will cease to exist after 31 March 2009. A more flexible approach is required to assist with transition.

4.3 Legal

- 4.3.1 The Council has a statutory obligation under section 37 of the Local Government Act 2000 to 'prepare and keep up to date' the Constitution.

- 4.3.2 In so doing the Council must have regard under section 38 of the Local Government Act 2000 to any current guidance issued by the Secretary of State for such purposes.

4.4 Personnel

- 4.3.1 Given that the nature of the changes recommended by the report itself impact should be minimal on staff. However, there are implications for staff taking over new roles and responsibilities up to the transfer to the new Authority.

4.5 Other Services

- 4.5.1 Relevant officers from other Service Teams will need to make themselves available for training on the Constitution.

4.6 Diversity

- 4.6.1 The Constitution will continue to be made available in various formats in order to seek to ensure that all sections of the Community are genuinely included and that no-one is excluded from being able to access the Constitution in a manner which is meaningful to them.
- 4.6.2 The straplines will therefore be updated in order to reflect changes which have occurred (such as the availability of 'ReadSpeaker' [Trade Mark] on the Council's website on the Intranet).

4.7 Risk

- 4.7.1 The risk to the Council is that the Constitution, if not kept current, will be in breach of its statutory duty.
- 4.7.2 The risk to the Community is that confidence in democracy will be eroded if there is a lack of efficiency, transparency and accountability arising from a Constitution which has been superceded by events.

4.8 Crime and Disorder

- 4.8.1 None

4.9 Data Quality

- 4.9.1 Every care has been taken in the development of this report to ensure that the information and data used in its preparation are accurate, valid, reliable, timely, relevant and complete. The Council's Data Quality Policy has been complied with in producing this report.

4.10 Other Implications

- 4.10.1 None.

5. Background, Position Statement and Options Appraisal

- 5.1 The Council has committed itself to continuous improvement and this includes its corporate governance arrangements. A review of the arrangements is due annually and is particularly relevant to consolidate changes arising from the Housing Stock transfer to Cestria Housing Association, to manage local government reorganization pressures, and to update following new legislative changes.

5.2 Overview and Scrutiny Committee – Composition & Scheme of Delegation

5.2.1 The Council is reviewing its Overview & Scrutiny arrangements and this recommendation is based on an assumption that changes are to be made to the current system to reduce the number of Overview & Scrutiny Committees to one. Article 7 of the Constitution ('Overview and Scrutiny Committees') and Part 3C ('Overview and Scrutiny Committees') would need to be amended. If members are so minded to only have one Overview & Scrutiny Committee, then I recommend the changes set out in Appendix 1 hereto.

5.3 Standards Committee – Composition & Scheme of Delegation

5.3.1 *Increased Membership* - On 8 May 2008 the local referral system for written complaints against Members was introduced by legislative provision with the Standards Committee required to set up an Assessment Sub-Committee of at least three, a Review Sub-Committee of at least three and the discretion to set up a Hearing Sub-Committee of at least three. The same members of the Assessment Sub-Committee cannot by law sit on the Review Committee in relation to the particular complaint. The Standards Committee and any Sub-Committee must by law be chaired by an Independent Member. Any matter concerning a parish can only be dealt with if there is a Parish Representative on the Committee or Sub-Committee. Given also the potential for conflicts of interests in any case, work commitments elsewhere etc., it is recommended that the composition of the Standards Committee be increased by an additional Parish Representative from two to three and by an additional Independent Representative from five to six full Independent Representatives (with the existing number elected members remaining at three) to ensure that any business can be transacted and the recommendations are set out in Appendix 2 hereto. Article 9 of the Constitution ('Standards Committee') and Part 3D ('Scheme of Delegation to other Committees') would need consequential amendments.

5.3.2 *Scheme of Delegation* – Article 9 of the Constitution ('Standards Committee') needs to be amended to deal with the obligation given directly to the Standards Committee (not the Council) by statute to set up an Assessment Sub-Committee and a Review Sub-Committee. I therefore recommend that the changes set out in Appendix 2 hereto. Part 3D ('Scheme of Delegation to other Committee') needs to be read in the light of the changes introduced to Part III of the Local Government Act 2000.

5.4 Licensing and Planning Committees

5.4.1 It is recommended that Part 3D ('Scheme of Delegation to Other Committees') shall be amended so that the membership of the Licensing Committee is 34 elected members and the membership of the Planning Committee is 34 elected members in order to give all members the opportunity to participate provided that no member shall be able to make decisions unless the member has completed training to the satisfaction of the Chief Executive.

5.5 Officer Scheme of Delegation (Part 3H)

5.5.1 *Planning* - Paragraph 20 of Part 3H of the Constitution ('Scheme of Delegation of Functions to Officers') is recommended to be amended to make clear that there is no delegation to officers to determine any planning matters submitted by elected members of the Council in their private capacity or to determine any planning matters submitted by officers of the Council in their private capacity.

5.5.2 *List of Posts* – Due to staff changes and restructures, there is a need to update the Constitution document. I recommend the changes set out in Appendix 3 hereto.

5.5.3 *Chief Executive Delegations* – Delegations are linked to service areas/functions and do not normally cross-cut departmental areas. It is therefore recommended without prejudice to any other delegations that, for reasons of business continuity and effectiveness, all delegations given to the Chief Executive under the Constitution be also exercisable in the absence of the Chief Executive by the Director of Corporate Services in his own right and also that if both the Chief Executive and the Director of Corporate Services are absent such delegations given to the Chief Executive be also exercisable by the Director of Development Services in his own right. There is no onward delegation of any such delegations.

5.6 *Consequential Amendments* – It is recommended that for the sake of clarity that the Head of Legal & Democratic Services be given delegated power to add, amend, alter, delete or otherwise change the Constitution document to implement decisions made in respect of the Constitution by the Council.

5.7 Financial Regulations (Part 4F)

5.7.1 It is recommended that all references to 'Director of Resources' shall be replaced by 'Head of Resources or Head of Corporate Finance (Chief Finance Officer)'.

5.8 Part 7 'Management Structure'

5.8.1 Part 7 of the Constitution ('Management Structure') likewise needs updating and it is recommended that the changes be made set out in Appendix 4 hereto.

5.9 Code of Corporate Governance

5.9.1 On 28 February 2008 the Council approved the new Code of Corporate Governance to replace that which appears in Part 5H of the current Constitution document. It is therefore recommended that the consequential changes be made to the Constitution document so that the new Code is inserted.

6. Recommendations

6.1 That the Council is recommended to agree the changes set out in this report and in the Appendices attached hereto be incorporated into the revised Constitution and adopted with immediate effect and that the said fully revised Constitution be formally agreed and adopted with immediate effect.

7. Background Papers / Documents Referred to

None.

Chris Potter

Head of Legal and Democratic Services

20 May 2008

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