

Item 8

REPORT TO COUNCIL

29TH FEBRUARY 2008

REPORT OF CHIEF EXECUTIVE

ARRANGEMENTS FOR REVIEW OF THE CONSTITUTION

1. SUMMARY

- 1.1 The Council's Constitution was adopted on the 24th May 2002 as part of the Council's approach to implementing the Local Government Act 2000. A number of reviews have taken place.
- 1.2 The Constitution itself must necessarily be kept under regular review so as to ensure that it reflects existing law and its operation continues to provide an efficient and effective framework for delivering the Council's aims and objectives. This report is a further review for the purposes of Article 16 of the Constitution.
- 1.3 The recommendations in this report, based on advice from the Council's Monitoring Officer, and following meetings of the Constitutional Review Group, reflect those areas where it is considered appropriate to make some further changes, viz:
 - Part 2 – Articles of the Constitution – Article 10 - Article 10.03(c) to be amended.
 - Part 2 – Articles of the Constitution – Article 13 – Council Employees – paragraph 13.02 – additional paragraph (c).
 - Part 3A – Responsibility for Functions A. Council function – Determination of Application for review of Premises Licence – to insert number 53.
 - Part 3B – Responsibility for Functions B. Cabinet Function: pg.56: item 11 to be amended; item 17 to be deleted.
 - Various changes to the Officer Delegations at Part 3 – Responsibility for Functions – C. Officer Delegations:
 - (a) to amend R29
 - (b) to delete R31
 - (c) to insert two new officer delegations under Resources
 - (d) to amend NS59 and NS60 to include additional officer
 - (e) to add additional name to NS64.
 - (f) to amend NS79.
 - Part 4 – Rules of Procedure – C – Budget and Policy Framework Procedure Rules – update paragraph 5.

- Part 4 – Rules of Procedure – C – Budget and Policy Framework Procedure Rules – update Budget Heads.
- Part 4 – Rules of Procedure – G – Contract Procedure Rules – changes to Procedure Rule 2.
- Update allowances at Part 6 - Members' Allowance Scheme.

2. RECOMMENDATIONS

- 2.1 That Council approves the amendments set out in the Appendix and directs the Council's Monitoring Officer:
- (a) to amend the Constitution accordingly and make all necessary and consequential amendments; and
 - (b) to publish an amended version on the Council's website.

3. BACKGROUND

- 3.1 Work is ongoing in reviewing the Constitution. A number of officers have formed a Constitutional Review Group, headed by the Monitoring Officer, and its purpose is to consider proposals for change with a view to reflecting the law and improving the efficiency of decision taking within the authority.
- 3.2 Previous reviews are identified in the list of background papers accompanying this Report.

4. LEGAL IMPLICATIONS

- 4.1 It is intended that these changes shall have immediate effect.
- 4.2 The principal changes are referred to in paragraph 1.3 above.

5. CONSULTATIONS

- 5.1 Management Team has been consulted on the proposed changes. Standards Committee has considered this Report on the 7th February 2008.
- 5.2 All Departments of the Council have been consulted with regard to the amendments suggested in this report.

Contact Officer: D.A. Hall, Solicitor and Monitoring Officer
Telephone No: (01388) 816166, Ext. 4268
Email Address: dahall@sedgefield.gov.uk

Ward(s)

Key Decision Validation

Background Papers

Reports:

- Council - 16th May 2003
- Council - 26th June 2003
- Standards Committee - 4th November 2003
- Council - 26th November 2003
- Council - 21st May 2004
- Cabinet - 25th November 2004
- Council - 25th February 2005
- Standards Committee - 3rd November 2005
- Council - 25th November 2005
- Standards Committee - 9th February 2006
- Council - 24th February 2006
- Standards Committee - 6th April 2006
- Council - 21st April 2006
- Standards Committee – 5th May 2006
- Council – 19th May 2006
- Standards Committee – 6th July 2006
- Council – 28th July 2006
- Standards Committee – 2nd November 2006
- Council – 24th November 2006
- Standards Committee – 8th February 2007
- Council – 27th February 2007
- Standards Committee – 5th April 2007
- Council – 20th April 2007
- Standards Committee (Special Meeting) – 27th April 2007
- Council – 18th May 2007
- Council – 29th June 2007
- Standards Committee – 5th July 2007
- Council – 27th July 2007
- Standards Committee – 7th February 2008

Examination by Statutory Officers

	Yes	Not Applicable
1. The report has been examined by the Council's Head of the Paid Service or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PROPOSED CHANGES FOR COUNCIL APPROVAL – 29TH FEBRUARY 2008

Page Reference and Proposed Amendment	Basis for Change
<p>Part 2 – Articles of the Constitution</p> <p>Page 17 – Article 10 – Audit Committee</p> <p>Paragraph 10.3(c) to be amended by removing the phrase “Statement of Internal Control” and replacing with “Annual Governance Statement”.</p> <p>Page 25 – Article 13 – addition of new Article 13.02(c):</p> <p>Functions to facilitate Local Government Re-Organisation Transitional Process:</p> <p>The Chief Executive may make changes to the Constitution, and take decisions on the basis of such changes, subject first to consultation with</p> <ol style="list-style-type: none"> 1. the Leader of the Council and the Chair of any committee or committees to which the decision might be relevant or have direct effect (in the latter case as circumstances might reasonably require); and 2. the Statutory Officers <p>where such changes are required on one or more of the following grounds:-</p> <ol style="list-style-type: none"> (a) to assist, promote or facilitate the transition to the creation of a new Unitary Local Authority. (b) that such steps are reasonably necessary in order to sustain the delivery of the Council’s functions and services. (c) that such steps are required to maintain the Council’s Constitution in accordance with current legislation. <p>subject only to the requirement that any such change shall subsequently be published on the Council’s website as soon as practicable and details of such changes being tabled for retrospective approval in a report to the next Council Meeting after such changes have taken effect.</p> <ol style="list-style-type: none"> 3. None of the changes approved under the above provisions shall be subject to the requirement first to refer the same to the Council’s 	<p>Head of Financial Services</p> <p>Notwithstanding anything to the contrary in the Constitution, the following changes shall apply to the Constitution in the event that the Local Government Review proposals are implemented for the administrative area of County Durham.</p> <p>To note these changes were approved by Council on 10th January 2008.</p>

Standards Committee."	
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Page Reference and Proposed Amendment	Basis for Change
<p>Page 46 - Part 3 – Responsibility for Functions. A. Council Function – Determination of application for review of Premises Licence</p> <p>To insert in box titled “Section of Act” the number 53.</p>	<p>To allow a quick process for attaching interim conditions to a licence and a fast track licence review when the Police consider that the premises concerned is associated with serious crime or serious disorder (or both). These provisions were inserted at Section 53A of the 2003 Act by the Violent Crime Reduction Act 2006 and came into force on 1st October 2007.</p>
<p>Page 56 - Part 3 – Responsibility for Functions. B. Cabinet Function</p> <p>No. 11 – to add “the Audit Committee”.</p> <p>No. 17 – to be deleted.</p>	<p>Head of Financial Services</p> <p>Council function (see Part 3A, para. 35)</p>
<p>Page 58 - Part 3 – Responsibility for Functions – C. Officer Delegations:</p> <p>(a) To amend R29 to read:</p> <p><i>“Authority to write off all debts where appropriate recovery procedures have been taken.”</i></p> <p>(b) Deletion of R31.</p> <p>(c) To insert two additional officer delegations:</p> <p><i>“Agree the purchase of such properties as required for the purposes of Deed swap for affected residents.”</i></p> <p><i>“Grant a discretionary relocation payment of up to £25,000 in exceptional circumstances.”</i></p> <p>(d) Amend NS59 and NS60 to include delegation “Selective Licensing Officer”.</p> <p>(e) Amend NS64 to include the name “Louise Billcliffe”.</p> <p>(f) Amend NS79 – change date from 1894 to 1984.</p>	<p>Director of Resources</p> <p>Director of Resources</p> <p>Director of Resources</p> <p>Director of Neighbourhood Services</p> <p>Director of Neighbourhood Services Inspection and Licensing Services Manager</p>

Page Reference and Proposed Amendment	Basis for Change
<p>Page 127 - Part 4 – C. Budget and Policy Framework Procedure Rules</p> <p>To amend:</p> <p>Paragraph 5 – to increase the limit from £25,000 to £35,000.</p>	<p>Head of Financial Services</p>
<p>Page 128 - Part 4 – C. Budget and Policy Framework Procedure Rules</p> <p>Update reference to “Budget Heads” from Resource Management, Culture and Recreation, etc. to Strategic Leadership, Healthy Borough – Leisure and Culture and Community Health, Attractive Borough – Environment and Planning and Development, Stronger Communities – Housing General Rate Fund and Safer Communities, Prosperous Borough – Social Regeneration and Learning and Employment</p>	<p>Head of Financial Services</p>
<p>Page 157 - Part 4 – G. Contract Procedure Rules</p> <p>To amend:</p> <p>Procedure Rule 2, paragraph 2.1(a) to amend to £3,497,313 with effect from 1st April 2008</p> <p>Procedure Rule 2, paragraph 2.1(b) to amend to £139,893 with effect from 1st April 2008.</p>	<p>Head of Financial Services</p>
<p>Page 259 - Part 6 – Members Allowances</p> <p>To update Members Allowances following Employees Pay Award with effect from 1st April 2007.</p>	<p>Basic and Special Responsibility Allowance paid to members is linked to the Employees Pay Award.</p>

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