

Delegated Decision

17 July 2020

Constitution Update



Report of Helen Lynch, Head of Legal and Democratic Services

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 To present proposals for the revision of the Council's Constitution.

Executive summary

- 2 The Council's Constitution describes the four methods by which the Council operates: the Council, the Executive, Overview and Scrutiny, and the Committees. It also provides the framework within which each must operate by including:
 - (a) the rules and procedures to be followed by the Council and committees when conducting their business;
 - (b) the decision-making powers of the Council, Executive, Committees and Officers;
 - (c) the financial and contract regulations;
 - (d) the rights of the public;
 - (e) codes of conduct for councillors and employees;
 - (f) members' allowances.
- 3 The Constitution has been regularly maintained and updated. The annual review of the Constitution was due to be considered by full Council at its annual meeting on 20 May 2020 however due to Covid-19 restrictions the annual Constitution has been deferred to a later date.
4. This report details the incidental changes which are to be made to the Constitution which can be implemented without full Council approval. The proposed changes are to reflect the changes to the organisational

structure, remote meeting and officer delegations in relation to planning matters.

Recommendation

5. The Head of Legal and Democratic Services:

- (g) in accordance with the delegation at table 7 paragraph 56, updates the Constitution to show the organisational changes
- (h) incorporates the changes to the Officer Scheme of Delegation in Planning matters and Remote Meetings & Procedure Rules which were presented to the Constitution Working Group on 22 May 2020 and implemented under the emergency powers in accordance with Table 1 Paragraph 12 of the Constitution.

Background

6. Section 37 of the Local Government Act 2000 requires local authorities operating executive arrangements to prepare and keep up to date a document which contains:
 - (a) such information as the Secretary of State may direct;
 - (b) the authority's standing orders (i.e. rules of procedure);
 - (c) the code of conduct for members; and
 - (d) such information as the authority considers appropriate.
7. The Council must ensure that copies of the above are available at the principal office for inspection by the public at all reasonable hours and supply a copy of the same upon request (upon payment of such reasonable fee as we may determine).
8. Durham County Council's Constitution is available on the Council's website and is reviewed on an annual basis.
9. An annual report is generally presented to full Council in May to review and update the Constitution. It was anticipated that the annual report for the changes to the Constitution would have been presented to full Council at the annual meeting in May 2020 however due to the Covid-19 restrictions the annual meeting has been deferred.
10. It has been necessary to make changes to the Constitution to ensure the continued effective running of the Council and the Corporate structure is updated to promote transparent and clear decision making.

Organisational Changes

11. On 4 December 2019 a report of the Chief Executive was presented to full Council on a proposed restructure which included establishing two new posts; the Corporate Director Regeneration, Economy and Growth; and the Corporate Director Neighbourhoods and Climate Change. In addition to the two new posts, the posts of Corporate Director Regeneration and Local Services and Director of Transformation and Partnership would be deleted with the re-alignment of the relevant Heads of Service.
12. Full Council approved the creation of two new posts and noted the deletion Corporate Director of Regeneration and Local Services post and the Direction of Transformation and Partnership post.
13. It is proposed that the Constitution is updated throughout to remove any references to the deleted Directors, that the creation of two new tables

within the Constitution for the two newly created posts as well as the realignment of the Heads of Services.

14. The restructure of the Corporate management Team in turn brings a number of changes to the scheme of delegations which are outlined below:

- (a) **Chief Executive**

- The proposed amendment updates to include communications to this delegation.

- (b) **Corporate Director of Neighbourhoods and Climate Change**

- The post of Director of Transformation and Partnerships has been deleted at Table 3 and replaced with the Director of Neighbourhoods and Climate Change.

- (c) **Corporate Director of the Children and Young Persons Service**

- It is proposed that Table 5 be updated to reflect the dissolution of the Local Safeguarding Children's Board and replaced with the Durham Safeguarding Children Partnership. This is a change in the legislative framework.

- (d) **Corporate Director for Regeneration, Economy and Growth**

- The post of Director of Regeneration and Local Services has been deleted at Table 6 and replaced with the Director of Regeneration, Economy and Growth.

- (e) **Corporate Director of Resources**

- It is proposed that Table 7 be updated to show the inclusion of the Head of Strategy and Head of Transformation.

Legislative Changes

15. On 23 May 2019 the Health and Wellbeing Board considered the report on the transition of the Local Safeguarding Children's Board (LSCB) to the Durham Safeguarding Children Partnership (DSCP). From 29 June 2018 the three Safeguarding partners had up to 12 months to agree their local arrangements, how to provide for independent scrutiny of their work, agreeing their funding plans, equitable and proportionate to meet local needs and identify which relevant agencies they consider appropriate to work with them to safeguard and promote the welfare of children in their area.
16. In April 2019 the Local Safeguarding Children Board ceased to exist and was replaced with the Durham Safeguarding Children Partnership

(DSCP). This DSCP is led by three statutory safeguarding partners and they are Durham County Council, Durham Constabulary, and the Clinical Commissioning Groups which have responsibility for North Durham and Durham Dales, Easington and Sedgefield geographic areas.

17. It is proposed that the Constitution at the Joint Arrangements be updated to reflect the legislative changes.

Remote Meetings and Procedure Rules

18. In April 2020 the Government suspended the legal requirement for local authorities to hold public meetings in person during the coronavirus pandemic.
19. The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 was introduced which permitted councils to hold public meetings remotely by using video or telephone conferencing technology.
20. In order to facilitate remote meetings it was necessary to update to a number of the procedure rules namely: Council Procedure Rules; Executive Procedure Rules; Access to Information Rules; Overview and Scrutiny; Highways Committee Representation Procedure; and the Code of Practice for Members and Officers Dealing with Planning Matters.
21. On 22 May 2020 the constitution working group were consulted on proposed changes and the decision to update the relevant Procedure Rules was taken by the Director of Resources under the emergency powers in accordance with Table 1 Paragraph 12 of the Constitution.

Scheme of Officer Delegations – Covid-19

22. Due to advice from central government regarding social distancing during the ongoing Covid-19 crisis there had been no meetings of the County Council or any of its committees since the 18 March. This has led to a backlog of applications which require determination.
23. The Chief Planner in his March Planning Update Newsletter encouraged Authorities to “consider delegating committee decisions where appropriate.”
24. In order to assist the Council to meet statutory timeframes in respect of determining applications and to provide some certainty to business, it was decided that all matters be delegated to the Interim Corporate Director of Regeneration, Economy & Growth other than those which the Head of Development and Housing considers are likely to have a significant impact on the environment or are by their nature particularly controversial or those which have been properly called in by Member or Local Council.

25. Any matters which would not be delegated would continue to be undetermined until such time remote meetings or face to face meetings could be facilitated in June 2020.
26. On 22 May 2020 the constitution working group were consulted on the proposed changes and the decision to update the Officer Scheme of Delegation was taken by Director of Regeneration, Economy and Growth under the emergency powers in accordance with Table 1 Paragraph 12 of the Constitution.

Background papers

- None

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Appendix 1: Implications

Legal Implications

The proposed changes are permitted to be taken by the Head of Legal and Democratic Services in accordance with Table 7 paragraph 57 of the Constitution. The amendments will need to be reported to the next convenient meeting of the Council.

Finance

There are no specific implications within this report.

Consultation

The changes for the Remote meeting and Procedure Rules were considered at a meeting of the Constitution Working Group on 22 May 2020. The organisational changes were considered by Constitution Working Group on 19 February 2020.

Equality and Diversity / Public Sector Equality Duty

The updates to the procedure rules promote the public sector equality duty by ensuring access to council business whilst meetings in person are suspended.

Climate Change

There are no specific implications within this report.

Human Rights

There are no specific implications within this report.

Crime and Disorder

There are no specific implications within this report.

Staffing

There are no specific implications within this report.

Accommodation

There are no specific implications within this report.

Risk

There are no specific implications within this report.

Procurement

There are no specific implications within this report.