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CABINET **16 NOVEMBER 2021**

UPDATE TO CONSTITUTION: ARTICLE 2, ARTICLE 15 AND COUNCIL PROCEDURE RULES

Report of Assistant Director of Law and Governance

1. Purpose of the Report

1. To seek agreement to recommend to Council proposed changes to the Constitution with respect to:

   a) clarifying the position of Members appointed to Committees and Sub-Committees between re-election and the date of the Annual Council meeting;
   b) authorising certain additional Officers to attest to the application of the Authority's Seal on deeds, agreements and other documents;
   c) limiting the number of questions on notice at Council meetings to three from each political group per meeting (excluding urgent questions); and
   d) accepting the service of notices of motion electronically.

2. Description of Decision (Recommendations)

Cabinet is requested to recommend Council to:

1. approve the proposed amendments to the Constitution as set out in the report and at Appendix 1, 2 and 3; and
2. authorise the Assistant Director of Law and Governance to amend the Constitution accordingly, including the making of any consequential amendments, stylistic or typographical changes, to ensure consistency throughout the Constitution.

3. Introduction/Background

The Council's Constitution is one of the key documents that regulates and governs the administration of the authority. The Constitution needs to be kept up to date to reflect changes in the requirements placed on the authority and to contribute to the efficient conduct of Council business.

The Constitution consists of a number of documents which together make the Constitution. This report proposes amendments to:

- Article 2 – Members of the Council: to provide clarity in relation to Members appointed to Committees following re-election until the Annual Meeting of the Council;
- Article 15 – Finance and Contract and Legal Matters: in relation to the authorisation of additional Officers to attest to the application of the Authority's Seal on deeds, agreements and other documents; and
- Part 4 Section 1 the Council Procedure Rules: in relation to the number of questions on notice that may be submitted to Council meetings and the service of notices of motion electronically.

4. Proposed Changes to the Constitution

4.1 Article 2 – Members of the Council

At each Annual Council Meeting Members are appointed to Committees and Sub-Committees. In addition, the Chairs and Vice Chairs are also appointed. Those appointments are usually expressed to last until the next Annual Council Meeting. In an election year, the Annual Council Meeting is held after the date of election. Where a Member is seeking re-election and is not returned, their membership of the Authority (and thereby any Committees, Sub-Committees and other organisations and bodies) ceases on the fourth day after the day of election. Where however an existing Member is returned, notwithstanding they may be a member of a number of Committees and Sub-Committees and they may hold the positions of a Chair or Vice Chair of such a Committee or Sub-Committee, because they are commencing a new term of office as a Councillor, there is a lack of clarity about whether those roles and responsibilities automatically continue into the new term of office up to the Annual Council Meeting, at which the appointment can be formally renewed or changed, as appropriate.

In order to put the question beyond doubt, it is proposed that the following is added to Article 2 – Members of the Council. The proposed wording to be added is as follows:

"2.02 (a) Term of Office on Committees and Sub-Committees

Subject to section 102(5) of the Local Government Act (councillor not re-elected to cease to be a member of a committee), every Councillor appointed as a voting member of such a committee or sub-committee and every Councillor appointed to exercise other functions (such as Chair or Vice Chair) in relation to a committee or sub-committee shall continue as such until the appointment is terminated by the authority."

A track changed version of Article 2 with the amendments highlighted in red is attached at Appendix 1.

4.2 Article 15 – Finance and Contract and Legal Matters

As a consequence of increased remote/home working it is also considered prudent to authorise additional senior officers to attest the Council's Seal on deeds, agreements and other documents.

It is therefore proposed that Council be requested to authorise an amendment to the Constitution to allow, in addition to the Chief Executive, Executive Director of Corporate Services and the Assistant Director – Law and Governance, the following officers, namely the Assistant Director of Finance (Deputy Section 151 Officer), the Senior Manager – Law and Governance (Deputy Monitoring Officer) and the Specialist Lead (Commercial Law) to attest to the application of the authority's Seal on deeds, agreements and other documents.

A track changed version of Article 15 with the amendments highlighted in red is attached at Appendix 2.

4.3 Part 4 Section 1 The Council Procedure Rules

Following the Council Meeting held in June 2021 a review of the operation of Council Procedure Rule 11 – Questions by Members of the Council, was undertaken specifically in relation to circumstances whereby the Chief Executive must consider whether a question is valid and the grounds upon which a question may be rejected.

Paragraph 11.4 (b) (ii) of the Council Procedure Rules currently provides that the Chief Executive will reject a question where it "relates to a matter regarding which the Chief Executive considers it would have been reasonable for the Member to try to obtain a response to their question in the first instance from any Member referred to in Rule 11.3 (a) to (d) or an officer, before submitting notice of the question to the Chief Executive."

At the Council meeting in June 2021 the application of this Paragraph resulted in all questions to the Council meeting submitted by Members being rejected.

Following consultation with the political group leaders, an alternative mechanism for the submission of questions to Council Meetings was trialled at the September 2021 Council Meeting. This alternative mechanism limited the number of questions to three per political group.

It is now proposed that paragraph 11.4 (b)(ii) be amended to reflect this alternative. The proposed wording of paragraph 11.4 (b)(ii) provides that the Chief Executive will reject a question where it "exceeds the limit of three questions that may be submitted by each political group for an individual council meeting (excluding urgent questions as detailed above in 11.4(a))".

In addition to the above it is also proposed to amend paragraph 12 – Motions on Notice, to make provision within the Council Rules of Procedure for the submission of Motions on Notice via email. This provision will allow greater flexibility for Members in relation to the submission of Motions on Notice and reflects the advances in modern technology to provide for this.

It is proposed to add the following words to paragraph 12.1 "The notice may also be given by electronic mail. Where a Member wishes to give notice of motion by way of electronic mail the notice must include the names of at least two Members. If the notice is provided by electronic mail the Proposer must copy into the notice email the other Member(s) who support(s) the motion with wording confirming that each Member copied in has agreed to being a signatory to the motion. The requirement for at least two signatories to the notice of motion will be considered by the Chief Executive to have been complied with unless any Member copied into the notice email objects to being identified as a signatory within a reasonable period and the number of signatories falls below two."

A track changed version of Part 4 Section 1 with the amendments highlighted in red is attached at Appendix 3.

5. Reasons for the Decision

The changes proposed to the Constitution are considered appropriate to keep the Constitution up to date and are reflective of the arrangements that are necessary within the Authority to assist it to operate effectively and efficiently.

6. Alternative Options

The alternative option would be to not make the proposed changes to the Constitution. This is not recommended as the changes proposed are considered to contribute to the effective and efficient conduct of Council business.

7. Relevant Considerations / Consultations

Co-operative Values – The decision proposed in the report supports and reflects the values of self-help, self-responsibility, democracy and equity.

Financial Implications – There are no direct financial implications arising from this report.

Legal Implications – There are no legal implications arising from this report.

9. List of Appendices

Appendix 1 – Proposed Article 2 of the Constitution with tracked amendments.
Appendix 2 – Proposed Article 15 of the Constitution with tracked amendments.
Appendix 3 – Proposed Council Rules of Procedure with tracked amendments.

10. Background Papers

a) The Constitution of Sunderland City Council; and
b) The Local Government Act 1972.