

Report to Council

Subject: Approval of a New Constitution

Date: 26 January 2022

Author: Head of Governance and Customer Services

Wards Affected

All

Purpose

For Council to approve the newly re-written version of Gedling Borough Council's constitution.

Key Decision

This is not a key decision.

Recommendation(s)

That Council;

- 1) Approves the new version of the Constitution at Appendix 1.**

1 Background

- 1.1 Members will be aware that as part of the Dynamic Council project, it was decided to look at how the Council's constitution could be improved to "enable decisions to be made with speed and ease whilst ensuring compliance with the law and to empower officers to make decisions that affect day to day operations". This review is now an action in the Gedling Plan under the High Performing Council priority.
- 1.3 Once the Review commenced in 2019, officers took the opportunity to go "back to the drawing board" with a view to ensuring that all sections

of the Constitution were still relevant and up to date and to assess whether or not any content needed to be either removed or created.

- 1.4 The Secretary of State originally issued a 'model' Constitution in 2000 for adoption by all Councils. Since then no further guidance has been issued. The model constitution has not kept pace with the changes affecting local government operations so most authorities have moved away from the model constitution.
- 1.5 It was quickly realised on commencement of review that the current constitution was compliant with the necessary legislation and that governance processes were running satisfactorily. This meant that officers were able to carry out the review thoroughly, safe in the knowledge that the existing Constitution was sound. The review has taken slightly longer than anticipated due to a number of urgent work areas that needed support in 2020/21, such as two unscheduled national elections and the Covid -19 pandemic. The cross party Member reference group that have been supporting the review, also gave a clear steer that the review should be carried out thoroughly and robustly and not held to an arbitrary timetable to ensure that the product of the review was as worthwhile as possible.
- 1.6 A full Executive Summary of changes to the Constitution is shown in Appendix 2 to this report. This document highlights the changes made to each section of the Constitution.
- 1.6 Consultation has been carried out with Senior Leadership Team and Senior Managers to establish whether delegations (Executive and Non-Executive) currently in place enabled efficiency in decision making, and to establish whether there were any gaps in delegations.
- 1.7 Reviews were undertaken of the Council's Standing Orders, in particular Contract Standing Orders, Financial Regulations and Standing Orders for Dealing with Land were reviewed by relevant specialist and statutory officers to ensure they remained lawful, practical and up to date. These have been considered by Senior Leadership Team and are considered to be fit for purpose.
- 1.8 The new Contracts and Procurement Rules, are clearer, reflect the post-Brexit regime and ensure compliance with Public Contract Regulations. They provide clear pricing thresholds to indicate the appropriate method of procurement with the only significant change being an increase in the level of contracts to be secured through a tender process from £50,000 to £75,000. It is important to note that following the government's Green Paper in respect of procurement there are likely to be some changes to the UK's procurement regime and the introduction of new legislation is

expected sometime in 2023. Further review of the Contract and Procurement Rules will be required at this point.

- 1.9 Standing Orders for dealing with Land, now named “Dealings with Land and Buildings” have been updated to provide clear definitions of “disposal” and to provide options as to appropriate methods of disposal for Council owned land and buildings. The rules for Dealing with Land and Buildings, do not contain specific delegations but cross reference to the Executive Scheme of Delegations, which sets out who can approve what level of sale or disposal.
- 1.10 Financial Regulations have been re-written and re-formatted to provide a clearer narrative around financial process and procedure with a link to key responsibilities and approvals required throughout. There have been some changes to financial thresholds where approvals may be required, in particular, Cabinet would now approve capital year end carry forward over £50,000 and revenue carry forward over £10,000. As carry over schemes are already committed and approved by Council as part of the budget process, the carry-over of those agreed schemes could be expedited through approval by Cabinet. In addition some changes have been made for financial thresholds at which officers can agree debt write off, stock/asset write off and contract variations.
- 1.11 A cross party Member Working Group was established early in the review process and have contributed a great deal to the review, with particular input into Procedural Standing Orders, which govern the process at Council meetings. Procedural Standing Orders have to align with legislative requirements but must also ensure meetings can be managed effectively and fairly. The changes to Procedural Standing Orders are summarised more fully in Appendix 2 and include a new agenda item of appointment of the Youth Mayor at annual Council, as well as clarifying notice periods for submission of questions by the public, members and submission of motions. The Orders have also been amended to reflect that in exceptional circumstances, where a member of the public has a question but is unable to attend the meeting in person, that the question can still be put.
- 1.12 In terms of what has changed in the new Constitution more generally, all sections have been updated to incorporate best practice as the current documents had not been substantially reviewed for a number of years. Where possible, Plain English has been used and the formatting and layout of the documents has been improved. Throughout the documents more appropriate language, for example removal of gender specific references, has been carried out. The structure of the document has been changed with “Articles” and “other sections” removed and replaced

with a simpler structure that removes unnecessary complication and duplication.

- 1.13 Specifically on the Schemes of Delegation, the document has been updated to reflect the correct management arrangements and delegations. One additional Executive delegation to permit the relevant Director, in consultation with the Portfolio holder, to authorise closing of council run facilities on Christmas Bank Holidays, was added. This makes better operational sense and is a good example of achieving the objective of streamlining the decision making process. Otherwise, no significant changes to current delegations are proposed. Any changes to Executive delegations require separate approval from the Executive.
- 1.14 Members will recall that there has recently been a review of the Council's Code of Conduct for Members and this remains unchanged in the updated Constitution.
- 1.15 The Constitution has been amended to provide clearer narrative around the functions, make up and responsibilities of Committees and the Executive. These changes make it easier for all to understand the different decision making bodies within the Council.

2 Proposal

- 2.1 It is proposed that Council approves the updated Constitution at Appendix 1 to this report. Any necessary amendments to Non-Executive delegations will be reported to relevant Committees following approval of this document.
- 2.2 Following on from approval, it is proposed that training in relation to the new Constitution, in particular the amended rules, is provided to officers.
- 2.3 Whilst approval is recommended, it should be noted that the proposed changes to the Constitution falls within Standing Order 29 of the current Constitution which states:

“29. Variation and Revocation of the Constitution

Any motion to add to, vary or revoke the Articles of the Constitution, Procedural Standing Orders, Standing Orders relating to Contracts, Standing Orders for Dealings with Land and Standing Orders relating to staff except for the amendment of financial limits and other amendments appropriate to give effect to changes in officers' duties, responsibilities

and titles, shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.”

Consequently, the changes to the Constitution cannot be agreed straight away.

3 Alternative Options

- 3.1 Members could determine not to approve the amended constitution, however the changes have been made in consultation with officers and the Member Working Group and are considered to be necessary to ensure the Constitution is accurate and fit for purpose.

4 Financial Implications

- 4.1 There are no direct financial implications associated with this report. The new Constitution would, however, introduce a new and updated set of Financial Regulations which would have a positive impact on financial management.

5 Legal Implications

- 5.1 The Local Government Act 2000, requires a local authority to prepare and keep up to date its constitution. The constitution must contain:
- The standing orders/procedure rules
 - The Member’s Code of Conduct
 - Such information as the Secretary of State may direct (e.g. Member’s Allowance Schemes, details of procedures for meetings) ;
 - Such other information as the authority considers appropriate.

The Local Government Act 1972, the Localism Act 2011, and local Government Acts and Regulations made prescribe the governance arrangements for local authorities in considerable detail. The new Constitution has been prepared in accordance with all relevant legislation to ensure the authority does not act outside its powers or ultra vires.

6 Equalities Implications

- 6.1 The review of the constitution has resulted in the document being reformatted into an easier to follow layout which is more compliant with

the Web Content Accessibility Guidelines, an internationally recognised set of recommendations for improving web accessibility.

7 Carbon Reduction/Environmental Sustainability Implications

7.1 No direct implications as a result of this report.

8 Appendices

8.1 Appendix 1: The new constitution

Appendix 2: Executive Summary of Changes

9 Background Papers

9.1 None identified

10 Reasons for Recommendations

10.1 To ensure that the Council's constitution is as robust and up to date as possible which in turn contributes to effective governance processes.

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer