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**REPORT TO:** Policy & Resources Committee

**DATE:** 12 February 2009

**REPORTING OFFICER:** Chief Executive  
Janet Waggott

**SUBJECT:** REVIEW OF THE CONSTITUTION – ARRANGEMENTS FOR  
THE DISCHARGE OF THE COUNCIL'S FUNCTIONS

**WARDS AFFECTED:** All

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## **1.0 PURPOSE OF REPORT**

1.1 To consider proposals for changing arrangements for the discharge of the Council's functions, including:-

- (i) A revised Scheme of Committee Delegation;
- (ii) A new Scheme of Officer Delegation with Officer Scheme of Delegation Protocols;

## **2.0 RECOMMENDATIONS**

2.1 That the Policy and Resources Committee be asked to recommend to Council:

- (i) To adopt the changes to the Council's Constitution listed in the attached **Annex 1**
- (ii) That the Chief Executive be authorised to amend the Constitution accordingly.

## **3.0 REASONS SUPPORTING DECISION**

3.1 To 'prepare and keep up to date' the Constitution in accordance with Section 37 of the Local Government Act 2000.

3.2 To provide clarity between those decisions made by Council and those decisions made by Committees.

## **4.0 BACKGROUND**

4.1 Section 101 of the Local Government Act 1972 empowers local authorities to make arrangements for the discharge of its functions.

- 4.2 The focus of this report is to propose change to the following parts of the Council's Constitution:-
- (i) Article 4 – The Full Council which outlines the role of Council; **(Annex 1.1)**
  - (ii) Article 11 – Officers **(Annex 1.2)**
  - (iii) Part 3 – The Scheme of Delegation to Committees and Sub-Committees **(Annex 1.3)**
  - (iv) Part 3 – The Scheme of Delegation to Officers **(Annex 1.3)**
- 4.3 The proposed changes to the Constitution are informed by a set of principles and an agreed method of delegation which was considered by the Council meeting on 15 January 2009 and are attached at **Annex 2**.

## **5.0 REPORT**

- 5.1 Against the background of the approved general principles and method of delegation outlined above, Part 3 of the Council's Constitution has been redrafted. A copy is attached at **Annex 1.3**
- 5.2 The proposed Scheme of Delegation is drafted very broadly to give maximum flexibility. It relies on the Protocols and Officer initiative to bring matters to Members' attention if appropriate.
- 5.3 Significant issues are still brought to Committee as considered appropriate by officers.
- 5.4 Members are made aware that the redrafted Part 3 – Responsibility for Functions is essentially in the following three parts:-
- (i) Council responsibilities and delegation of functions to Committees;
  - (ii) Delegation of functions to Officers;
  - (iii) Protocols for the Scheme of Officer Delegation.
- 5.5 The headline changes to the existing Constitution contained in the redrafted document are summarized as follows:-
- (i) Extensive delegation of functions to Officers;
  - (ii) A protocol to ensure that Members still have adequate opportunity to comment on and be involved in the decision making process as appropriate;
  - (iii) Changing the name of the Community Services and Licensing Committee to Community Services and allocating the licensing functions to the Licensing Committee;
  - (iv) Ensuring that Officers have powers to exercise the Council's functions in an emergency;
  - (v) Updating Article 11 which relates to the Management Structure of the Council.

## **6.0 FINANCIAL IMPLICATIONS**

- 6.1 Staff resources have been used and will continue to be required to conduct a review of the Council's Constitution.

## **7.0 LEGAL IMPLICATIONS**

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

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.

## **8.0 RISK ASSESSMENT**

- 8.1 The risk to the Council is that the Constitution, if not kept current, will be in breach of its statutory duty.

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 not been kept up to date.

## **9.0 CONCLUSION**

- 9.1 Members are asked to consider and agree the proposed changes to the Council's Constitution as recommended above.

## **BACKGROUND PAPERS**

New Council Constitutions – Guidance Pack volumes 1 & 2 published by DETR on 27 October 2000

### **OFFICER CONTACT:**

Please contact Anthony Winship, Council Solicitor, if you require any further information on the contents of this Report. The Officer can be contacted at Ryedale House, Telephone 01653 600666 ext. 267 or e-mail: [anthony.winship@ryedale.gov.uk](mailto:anthony.winship@ryedale.gov.uk)