

AGENDA ITEM 4**REPORT TO THE TEES VALLEY
COMBINED AUTHORITY CABINET****2nd JULY 2021****REPORT OF GROUP CHIEF LEGAL OFFICER (MONITORING OFFICER)****ANNUAL REVIEW OF TVCA CONSTITUTION****SUMMARY**

The TVCA Constitution requires the Monitoring Officer to formally review the Constitution at least once per year, and to bring forward any proposals for amendment for Cabinet consideration and approval. This report recommends various changes to the current Constitution. The amendments are shown in the proposed new version of the Constitution as set out in Appendix 1 to this paper. The reasons for each proposed change are detailed in the table within this report.

RECOMMENDATIONS

It is recommended that the Combined Authority Cabinet:

- i. Approve the amendments to the Constitution as set out in Appendix 1
- ii. Agree the revised Constitution may be published

DETAIL

1. Cabinet approved the appointment of a new Monitoring Officer in September 2020.
2. The Constitution (Part 1, para 5) requires the Monitoring Officer to review the Constitution annually and to make recommendations for consideration by cabinet, having first consulted with the Group Chief Executive.
3. This paper sets out the recommendation of the Monitoring Officer, having undertaken a thorough review. As required by the Constitution, the Group Chief Executive has been consulted on the proposed amendments.
4. The review is also informed by the recommendations of an internal audit dated – May 2021 and a comparative analysis of other combined authority constitutions and current legislative framework.
5. The Constitution showing the proposed amendments is attached as an appendix to this paper. The Constitution has been generally reformatted to make it easier to read and navigate. Changes of pure formatting and re-ordering have not been marked but any textural changes have been marked on the document in green text.

6. The following table sets out the recommended principal changes to the Constitution and a short reason for each of those changes.

Ref	Proposed Amendment	Reason
Part 1 - Introduction		
Contents	Contents page has been reformatted to represent the re-ordered sections. Page numbers and version control have also been added on the basis that the document is now a single navigable word document.	For ease of navigation
New	Version Control page has been added.	Internal Audit recommendation that version control table to be included and page footer also to identify version
Contents	Constitution has now been divided into Parts with various Annexes incorporated as their own part. Certain stand-alone documents – for example The Assurance Framework have now been removed from the Constitution document and will be referred to.	This action is a recommendation from Internal Audit.
Introduction para 3 (page1)	Paragraph 3 expanded to identify relevant legislation and to confirm the legal basis of the constitutional document.	To provide certainty as to the legislative basis.
Introduction para 6 (page 2)	Factual amendment to record Mayoral Election on 6 May 2021.	To bring the document factually up to date.
Introduction Para 8 & 9 (page 3)	Amendments for clarity.	For clarity.
General – added footnotes (page 4 etc)	Footnotes added to identify legislative references and cross referencing.	To assist with future revision of the document.
Para 17 (page 5)	Removal of caveat relating to Chair's awareness.	To reflect the current legal requirement.
Para 24 (page 6)	To remove unnecessary words and to add in a prescribed unanimity requirement.	To reflect the current legal requirement.
Para 30 (page 7)	To reflect the requirement for Local Industrial Strategy (LIS)	For completeness.

Para 38 (page 11)	To add in reference to Adult Education powers.	To complete the list.
Para 53 (page 14)	To simplify reference to the Assurance Framework which no longer forms part of the Constitution but is a Cabinet approved document by virtue of para 25 (v) and para 114.	To reflect the recommendations of a recent internal audit.
Para 59 (page 15)	To confirm the LEP nominee none voting member at Cabinet will be confirmed at the AGM.	To reflect current practice.
Para 101-103 (page 23)	Section on the South Tees Development Corporation added.	Whilst earlier provisions of the Constitution address Mayoral Development Corporation generically, it does not acknowledge the creation of STDC.
Para 104-113 (page 23-25)	Provisions relating to the Teesside Freeport Board.	To reflect the formal establishment of the Teesside Freeport Board reporting to Cabinet.
Para 114 (page 25)	Identify strategies and key documents which must be approved by Cabinet.	To identify key documents requiring cabinet approval without the necessity to reproduce those documents as part of the Constitution – in line with internal audit recommendations.
Para 115 (page 26)	To confirm Cabinet authority over the appointment of deputies for statutory officer roles.	For clarity and organisational resilience.
Ref	Proposed Amendment	Reason
Part 2 – Rules of Procedures - Cabinet		
Rule 2.1	To require confirmation of Freeport Board and STDC Board at the AGM.	Confirmation of current practice, extending to the new Freeport governance.
Rule 8.3	Removal of reference to any other business items.	To accord with current Local Government Act requirements.
Rule 17.1 & 17.2	To strengthen the provision to general disturbance.	To increase certainty.

Rule 19	Urgent decision provision procedure inserted.	To provide clarity on the procedure for decisions between meetings and the appropriate governance controls.
Rule 20	Procedure for confirmation of decisions in writing.	To give constitutional effect to current practice in certain circumstances.
Rule 22	To introduce Rules on the suspension of procedural requirements.	To provide a clear process for Cabinet on this issue in line with current accepted Local Government practice for improved governance control.
Rule 25 & 26	To record the authority's procedures for the authentication and sealing of documents.	To provide a clear process for cabinet on this issue in line with current accepted Local Government practice for improved governance control.
Rule 27 & 28	To introduce the operative provisions relating to committees and working groups in accordance with Local Government practice.	The operative provisions provide a basis for earlier provisions (Rule 2-4) and provide a link to sub-committee provisions.
Rule 29-32	Introduce provisions relating to attendance and resignation of members.	This reflects current Local Government practice and provides certainty.
Rule 33	An operative provision to formally link in the Financial Regulations (which together with the Contract Procedure Rules, now form Part 5 of the Constitution).	To provide source of authority for the financial regulations as a condition of exercising authority delegated by Cabinet. This is in accordance with current Local Government practice.
Ref	Proposed Amendment	Reason
Part 3 – Rules of Procedures for Statutory Committees		
Para 2.4 (page 55) Note (page 57)	Proposed amendment to formally record the Audit and Governance Committee's role in the standards regime in accordance with para 87 of Part 1 (page 20) and the Localism Act 2011.	To consistently record this responsibility for clarity.
Teesside Freeport Board	Terms of reference introduced to reflect the formalisation of the Board.	For completeness.

(page 61)		
Para 3.3 (page 66)	To clarify responsibility for addressing dispensations under section 33 of the Localism Act 2011.	For clarity.
GD3 (page 69)	To introduce high level reservation of financial authority for senior officers to ensure that higher value transactions must be sanctioned by the Group Chief Executive.	This is a generally accepted good governance provision as the basis of a scheme of financial delegation in accordance with current Local Government practice.
HPS 3, 6,7, 10, 11,12 (page 70 & 71)	Delegations to the Group Chief Executive extended.	In accordance with the current practice of other combined authorities. This provides greater clarity and certainty around authority to act.
HPS 9 (page 70 & 71)	Introduce a high-level financial delegation and reservation to the Group Chief Executive. The effect of the delegation is to give clear authority to act and confirmation of when things must be referred to Cabinet due to their financial value. This is in line with the financial thresholds for a key decision.	It is Local Government practice to ensure that there is a clear financial threshold above which larger transactions must automatically be referred to cabinet for a decision. This is a fundamental of good governance and in line with current Local Government practice.
HPS 13 (page 71)	Amended to make it clear that there can be no management override of expressly delegated authority.	The amendment ensures the preservation of separation of duties in accordance with good governance. It is a key governance control. For clarity.
CFO 5-13 (page 72) [CFO 18] (page	Delegations to the Group Director of Finances and Resources extended.	In accordance with the current practice of other combined authorities. This provides greater clarity and certainty around authority to act.
MO 1(d) and MO 3 (page 74)	To extend the delegations to the Monitoring Officer in accordance with combined authority practice and to provide clarity in relation to the management of dispensations in accordance with Localism Act 2011.	In accordance with the current practice of other combined authorities. This provides greater clarity and certainty around authority to act.
Ref	Proposed Amendment	Reason
Part 4 – Financial Regulations (including Contract Procedure Rules)		
Generally	The Contract Procedure Rules have been incorporated as part of the	To reflect legislative change and job title changes.

	financial regulations to provide certainty and clarity about their relevance and effect. The clause has been generally reviewed to remove reference to the EU procurement regime and to reflect that there is no Legal and Commercial Manager post.	
Ref	Proposed Amendment	Reason
Appendices		
Appendix I – Code of Conduct (page 104-131)	Text has been reformatted to ensure that codes of conduct for members and officers plus the members and officers’ protocol are clearly structured.	For clarity and ease of access.
Appendix II, III & V (page 132-135, 137-143)	Formatting changes only, no change to text.	For clarity and ease of navigation.

FINANCIAL IMPLICATIONS

7. Changes to the Constitution have no financial consequences in themselves. The Constitution provides the governance framework for the combined authority including the high-level financial delegations, financial regulations and contract procedure rules which control how the combines authority deploys its financial resources.

LEGAL IMPLICATIONS

8. The combined authority’s Constitution is its key Constitutional document, when taken together with founding and other applicable legislation. Ensuring the Constitution remains relevant and up to date is a key element of good governance.

RISK ASSESSMENT

9. A clear, well-structured, and easy to navigate Constitution reduces the likelihood that members and officers mistakenly act outside the governance framework.

CONSULTATION & COMMUNICATION

10. Statutory officers and constituents’ authorities have been consulted about these proposed amendments. The amendments incorporate comments from these sources and other specialists within combined authority staff.

EQUALITY & DIVERSITY

11. The Constitution is of general application.

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