

Report to: COUNCIL

Date: 5 December 2023

Report of: Sandra Stewart – Chief Executive

Subject Matter: REVIEW OF COUNCIL CONSTITUTION

Report: The report sets out proposed changes to the Council Constitution.

Recommendations That Members consider the proposed changes to Council Constitution, in particular the following:

- (i) That the changes to as set out in **Appendix 1**.
- (ii) That Members note the intention to review sub-delegations by Directors and ensure recorded.
- (iii) That the updated Part 3d - Statutory and Proper Officers be noted as set out in **Appendix 2**.
- (iv) That the proposed changes to Part 4f: Budget and Policy Framework set out in Article 4 be approved.
- (v) Part 5 Standards of Conduct and Ethics – Standards Committee endorsement of current contents and view that need to be better understood by Members and Officers be noted.

Financial Implications: There are no direct financial implications
(Authorised by Section 151 Officer)

Legal Implications: The Local Government Act 2000, as amended, requires a local authority which is operating executive arrangements to prepare and keep up-to-date a Constitution which contains a copy of the authority’s standing orders for the time being. The Monitoring Officer is required to monitor and review the operation of the Constitution on an on-going basis, and, where necessary, bring forward amendments to the Council
(Authorised by Borough Solicitor)

Risk Management: It is important to continually monitor and review the effectiveness of the Constitution to ensure good governance.

Links to Community Strategy: The Constitution and democratic framework provides an effective framework for implementing the Community Strategy.

Access to Information	Appendix 1	Table of proposed changes
	Appendix 2	Statutory and Proper Officers
	Link to Constitution	<u>Agenda for Constitution on Tuesday, 23rd May, 2023 (moderngov.co.uk)</u>

The background papers relating to this report can be inspected by contacting the Report Writer Robert Landon, Head of Democratic Services by:

 Telephone:0161 342 2146

 e-mail: robert.landon@tameside.gov.uk

1. INTRODUCTION

- 1.1 The Local Government Act 2000, as amended, requires a local authority which is operating executive arrangements to prepare and keep up-to-date a Constitution. The Monitoring Officer is required to monitor and review the operation of the Constitution on an on-going basis, and, where necessary, bring forward amendments to the Council. Although specific elements of the Constitution have been reviewed and amended, the Constitution as a whole has not been comprehensively reviewed for a number of years. It is also timely to ensure that the Constitution is fit for purpose prior to LGA peer review and to ensure that the Constitution reflects organisation and legislative changes.

2. WHAT IS THE PURPOSE OF THE CONSTITUTION?

- 2.1 The Council Constitution provides a framework within which people can understand their own responsibilities, and the responsibilities of others. It allows decision-making, within a democratically elected body, to be consistent, accountable and transparent. The Constitution should facilitate strong, effective relationships. Good constitutions provide an anchor for strong organisational and political cultures in which people work well together, and in which decision-making is well-understood by (and visible to) the public. Constitutions are also rulebooks, they set out much, but not all, of the technical detail of how the council's main decision-making systems operate.
- 2.2 By law, a council's constitution must contain certain key elements. The detail of these can be found in the Local Government Act 2000 (Constitutions) (England) Direction 2000, which remains in force.
- 2.3 The Constitution sets out the basic principles that are especially important to the way that the council works and the fundamentals of how the local authority operates. Being able to articulate the principles that govern how decision-making will work will provide consistency, and will make it easier to secure commitments to positive working behaviours. If people don't understand why decision-making systems work as they do, and/or if those systems are seen as arcane and frustrating, they may not be taken seriously.
- 2.4 Under executive arrangements, members exert oversight, and provide direction, in a number of places – at full Council, in scrutiny committees, audit committee and other forums – working groups, panels and so on. Having a sense of members' expectations of the level of oversight they will have over decision-making, and delivery, is an important part of designing constitutional arrangements that are balanced, and which provide for strong local accountability. Particularly as councils are under great financial pressure, ensuring that consistent expectations exist around member oversight of financial issues is important, the Constitution sets this framework.
- 2.5 Further to the general point above about the dividing line between members and officers, there needs to be a degree of confidence in those matters where officers will be empowered to make decisions, and to deal with problems and risks.

3. WHAT IS THE CURRENT STRUCTURE OF THE CONSTITUTION?

- 3.1 Most councils have stuck fairly closely to the constitutional structures set out in the Government's "Modular Constitution", produced in 2000. It deserves re-emphasis that this model, modular constitution is a piece of statutory guidance – councils therefore need to have regard to it in reviewing, and redrafting, their own constitutions. Following the structure of the Modular Constitution makes it easier to ensure that the contents of the constitution are being managed properly and legally. The structure is also tried and tested, having been in operation in most councils for over two decades. The current structure of the Tameside Council

Constitution is as follows:

Part	Content
1	Summary
2	Articles Of the Constitution
3	Responsibility For Functions
3a	Terms of Reference and Scheme of Delegation
3b	Portfolios
3c	Job Profiles
3d	Statutory and Proper Officers
4	Procedural Rules
4a	Procedural Standing Orders
4b	Financial Regulations
4c	Procurement Standing Orders
4d	Officers Employment Procedure Rules
4e	Access to Information Procedure Rules
4f	Budget and Policy Framework
4g	Scrutiny Procedure Rules
5	Standards of Conduct and Ethics
5a	Code of Conduct
5b	Whistleblowing Policy
5c	Anti-Fraud, Bribery and Corruption Strategy
5d	Members Planning Code
5e	Monitoring Officer Protocol
5f	Section 151 Officer Protocol
5g	Member/Officer Protocol
5h	Gifts and Hospitality
6	Members Allowance Scheme
7	Management Structure

4. WHAT HAS BEEN REVIEWED?

4.1 At its meeting on 21 May 2013 Council authorised the Monitoring Officer to make minor changes to the constitution to reflect changes in Council officer structure and changes in legislation requiring changes to delegations. Various minor changes have been made since then to ensure that the Constitution reflect current organisational and legislative requirement.

What did not need to be reviewed?

4.2 In addition to changes referred to in 4.1 the following parts of the Constitution have been reviewed and agreed by Council in recent years and therefore did not need to be reviewed other than a check that they still reflected current organisational and legal requirements:

- Financial Regulations – amended by Council on 5 October 2021
- Contract Standing Orders – amended by Council on 4 October 2022
- Members Code of Conduct – amended by Council on 17 November 2020

5 DETAIL OF CONSTITUTION CONTENT AND REVIEW

Part 1 – Summary and Explanation

5.1 This part sets out what is included in the Constitution; what it is for and who decides what is in the constitution. It is not proposed to change this Part of the Constitution.

Part 2 – Articles of the Constitution

5.2 While the Articles themselves are not a statutory requirement, their contents act as a central repository of basic information about key bodies and structures within the council, including membership, terms of reference and other key information about those bodies and how they

work together. This information is reproduced elsewhere in the constitution – but the Articles provide a useful introduction to those bodies and structures, and how they interact. The current Articles are:

Article 1	The Constitution
Article 2	The Council
Article 3	Citizens and the Council
Article 4	The Full Council
Article 5	Chairing the Council
Article 6	The Executive
Article 7	Scrutiny Panels
Article 8	Overview Panel
Article 9	Speakers Panel (Planning)
Article 10	Speakers Panel (Licensing)
Article 11	Speakers Panel (Liquor Licensing)
Article 12	Standards Committee
Article 13	Audit Panel
Article 14	Health
Article 15	Neighbourhood Forums
Article 16	Joint Arrangements
Article 17	Officers
Article 18	Decision Making
Article 19	Finance, Contracts and Legal Matters
Article 20	Review and Revision of Constitution
Article 21	Interpretation and Publication of Constitution

Proposed changes to the Articles are set out in the **Appendix 1** table of changes.

Part 3a – Terms of Reference and Scheme of Delegation

5.3 Part 3a of the Constitution contains Terms of Reference and Scheme of Delegation sets out the Terms of Reference for each of the following Member bodies and can be found at this link: [Part3a terms of reference and scheme of delegation updated 21119.pdf \(moderngov.co.uk\)](#):

- Executive Cabinet
- Board
- Speakers Panel (Planning)
- Speakers Panel (Employment Appeals)
- Speakers Panel (Licensing)
- Speakers Panel (Liquor Licensing)
- Health and Adult Social Care Scrutiny Panel
- Place and External Relation Scrutiny Panel
- Children's Services Scrutiny Panel
- Strategic Planning and Capital Monitoring Panel
- Overview Panel
- Audit Panel
- Pension Fund Management Panel
- Education Attainment Improvement Board
- Health and Wellbeing Board
- Asset Management Panel

5.4 Part 3a also sets out delegation to individual Executive Members, Senior Leadership Team and individual Directors.

5.5 Directors and Assistant Directors have been consulted on the contents of this part of the Constitution and suggested changes and reasons for proposed changes are set out in **Appendix 1**. At its meeting on 20 November 2023 the Democratic Processes Working Group reviewed the suggested changes. The Working Group noted that some of the proposed

changes fell into the category of changes that could be agreed by the Monitoring Officer as consequential changes from organisational or legislative changes. **Appendix 1** therefore only includes proposals that require a decision of Council. The table sets out the proposed change, reason for proposal and recommendations for Council.

Part 3b - Portfolios

- 5.6 Part 3b sets out the Portfolios of individual Executive portfolios, these are reviewed annually and presented to Council for information. The appointment of Executive Members and the portfolios allocated to them are determined by the Executive Leader rather than Council and no changes are proposed to Part 3b.

Part 3c – Job Profiles

- 5.7 Part 3c of the Constitution contains job profiles for various Member roles as follows:
- Speakers Panels - Chair and Deputy Chairs
 - Scrutiny Panels - Chair and Deputy Chair
 - Council - Civic Mayor and Chair of Council
 - Overview Panel - Chair
 - Frontline Councillors
- 5.8 It is not proposed to make any changes to Part 3c.

Part 3d – Statutory and Proper Officers

- 5.9 Part 3d sets out the statutory and proper officers, this sets out which officers are designated to each of the statutory roles and where there is a requirement to appoint a proper officer with legal responsibility for specific tasks and actions. Proper Officer appointments are usually the member of Senior Leadership team with responsibility for the service area, current Statutory and Proper Officer appointments are attached at **Appendix 2**.
- 5.10 The proposed changes in this section relate to public health matters and are highlighted in yellow.

Context for Reviewing Part 3 of the Constitution

- 5.11 Councils are complex institutions, with multi-million pound budgets. While elected councillors are in charge and set out the strategy and policy framework for decision making, they cannot take all or even most day-to-day decisions. This is why systems exist, in local authorities, for certain decisions to be delegated. All authorities are obliged to keep a “scheme” of delegation – a description of the types of decisions that can be made by council officers, and by individual councillors or groups of councillors, under a range of different circumstances. These decisions must be made in line with the policy framework set by elected members.
- 5.12 Understanding the distinction between member and officer roles:
- Members lead, officers implement;
 - Delegation should support members to focus on policy;
 - Delegation helps with political accountability – it provides for officer decision-making within a framework set by councillors.
- 5.13 Schemes of delegation are intended to assist the authority in maintaining efficiency and effectiveness in service delivery. It should not prevent or be used to sidestep serious issues or significant decisions by either councillors or officers. Officers cannot (usually) pass an operational decision back to councillors because it is too difficult – although it is a different matter if the decision is especially politically contentious, or raises wider policy issues. And Councillors cannot delegate decisions to officers that are political and strategic because this sits within their sphere. While accountability rests with members politically, officers are accountable and responsible for decisions properly delegated to them; and in respect of “proper officer” functions, members do not hold responsibility at all.

Consistent Financial Thresholds

- 5.14 In addition to the scheme of delegation there are spend criteria which determines whether the decision is delegated or taken by members. The size of the spend is often set to reflect the size of the council's overall budget. The thresholds are set out in the Financial Regulations.

Political Clarity

- 5.15 There will always be an area of overlap between member and officer decision-making responsibilities; Because of this councillors' political motivations and objectives must be understood by officers; Officers need to possess a degree of political discernment so that they can operate confidently in "political" spaces, making certain decisions with members in concert. This is particularly the case with high profile, or contentious, decisions, which might require a higher degree of member oversight. Even where member and officer roles overall are well understood, the impact of local politics can make the demarcation unclear and inconsistent. On some high profile or highly contentious matters, members can rightly expect to be more involved than might otherwise be the case – or at the very least sighted when decisions come to be made. There may therefore be occasions where responsibility has been delegated but the officer chooses not to exercise it – because it is a sensitive issue or where the officer feels that it is policy rather than operational decision (or could be perceived by residents as such). While this will be rare, councils need to have systems in place to ensure that these issues can be identified ahead of time. It cannot always be relied on that officers holding delegated authority will have the political acumen to proactively identify these kinds of issues. Chief officers, and the Monitoring Officer (and other legal and governance professionals) may have to provide advice, and oversight.
- 5.16 For the Scheme of Delegation to work effectively Councillors, especially executive members must be kept informed of, and engaged in, emerging issues (this can be via briefings or member-officer discussions) and are made aware of major forthcoming decisions coming their way but as mentioned earlier the efficient running of the council would be limited if too many decisions, especially those that are operational, rest with the executive.
- 5.17 Officers have to keep members sighted on matters of corporate importance to ensure proper accountability. If decisions work through the member process but with members having little understanding of their significance or opportunity their ability to challenge or influence them is limited. Structures should be in place to ensure that members are kept informed of issues and any modifications to a decision that may be likely. Otherwise, it has the potential to become performative or simply a tick box exercise which weakens the council's overall governance.

The Cascade Principle

- 5.18 The Scheme of delegation in the Constitution delegates responsibility to Chief Executive and Directors, however:
- Decisions should be taken at the most appropriate level, by those with the practical skills and knowledge to make those decisions effectively;
 - To provide for this, systems of onward delegation from chief officers to more junior officers should exist;
 - Where onward delegation, or "sub-delegation", is exercised, the nomination/authorisation of individuals to make decisions must be clearly recorded.
- 5.19 When officer delegations are made the Constitution delegates to Chief Executive/Directors. They can then transfer delegated power to the relevant officers. This can be described as delegation via the "cascade principle". This means that decisions are taken at the most appropriate level i.e. by those with the correct professional skills, and with a closer connection to those affected. Thus, the vast majority of the Council's decisions and actions will fall into the category of operational day to day decisions taken by its officers. Officers acting under delegated powers in this way (further to authorisation through what is sometimes called "sub-delegation") can exercise a range of powers necessary to discharge executive functions. This includes officers taking decisions, implementing decisions and managing the services, contracts and staff for which they are responsible. Officers have the authority to take decisions

within their area of responsibility which have been delegated and/or nominated to them. Officers work on the basis that, where functions have not been delegated or nominated to officers, it is the right of Members to take the final decisions. This is usually informed by officers' advice, although members may listen to the advice but make an independent decision. Where the cascade principle is used by a local authority this will usually be governed by a local scheme of nomination which sets out the defined areas of the Council's service areas given to specific officers. This is based on the assumption that for the majority the delegated officer will make decisions. This may require that the individual decision must be evidenced in writing, dated and signed by the officer delegating the power – and that the nomination is clearly recorded. The scheme of nomination can be temporary and the person or body (if it is a committee) may reassume responsibility at any time. However, this should be done with due consideration and liaison between officers and cabinet. If the power of resumption is too loose and cabinet unpredictably makes decisions within the officer delegation sphere, the scheme of delegation will become ineffective or inoperable, and essentially meaningless.

- 5.20 Following the review of the scheme of delegation it is intended to review sub-delegations to ensure that any sub-delegations are appropriately recorded and that there is an appropriate record when such decisions are made.

Accurate recording and reporting

- 5.21 Legislation exists that requires the reporting of certain individual decisions made under delegated authority. Even where individual reporting is not required, a regular digest of decisions made under delegated authority needs to be prepared, shared with members and published. As is the case in delegation from manager to staff, formal delegation of authority is the process of distributing and **entrusting** work to another person, with minimal intervention. Here, that is from elected member to a local government officer. As with other areas of governance there needs to be in place a means of oversight and accountability of decisions made in this way. Councils are required to issue and maintain an up-to-date record of what part of the Council or individual has responsibility for particular types of decision or decisions relating to particular areas or functions. Recording arrangements for certain delegated officer decisions (not all) are set out in the Openness of Local Government Bodies Regulations 2014. Regulation 7 says:

Adherence to law

- 5.22 Decisions must be made in a way that respects the scope of the power originally held, and the way that that power has been delegated; The exercise of delegation is framed by law – legal advice needs to be given, and taken, to avoid confusion. All delegation and decisions following from that delegation have always to remain within the law – i.e. decisions must remain within the scope of the delegation itself to be valid. Officers holding responsibility for delegated decisions should be expected to have sufficient familiarity of the scheme of delegation and its requirements not to need the regularly intervention of the Monitoring Officer or Chief Finance Officer. In certain contexts, this may not be completely simple. While it is unlikely that the precise scope of a delegated power will be tested in court, the nature of the delegation must be clearly expressed, and understood, in terms that reflect the original legal authority by which the delegation has been made.

Delegation from Cabinet

- 5.23 Some functions of the council, as specified by the Local Government Act 2000, are divided into two categories: executive and non-executive. Non-executive functions (or Council functions) are set out in Regulations issued under the Act and include activities such as the determination of applications relating to planning and licensing. The council may delegate decisions concerning these services to committees, sub-committees or officers under section 101 of the Local Government Act 1972.
- 5.24 Executive decisions, meanwhile, are the responsibility of Cabinet. Generally speaking they reflect the broad spread of Council policymaking on things like adult social care, housing, children's services, environmental services, leisure and culture, and the setting of policy for

non-executive functions like planning and licensing. Executive decisions can be made by:

- Cabinet, collectively. At a meeting of Cabinet, a decision is tabled and made by all Cabinet members together;
- Cabinet members individually. Some councils, but not all, make arrangements for individual Cabinet member decision-making. Cabinet members will make decisions in accordance with the terms of reference of their portfolios, as set out in the constitution. Certain decisions are likely to be held by the Leader under this model;
- Officers, in line with the scheme of officer delegation.

5.25 The most significant are often described as “key” decisions. A key decision taken by the Leader, Cabinet, Committee of Cabinet or an Officer is any executive decision which is likely:

- to result in the Council incurring expenditure or making savings which are significant (this is generally expressed in a figure that relates to the council’s overall budget, in Tameside this is
 - any Executive decision which requires a budget expenditure of £30,000 or more that is not in the budget presented to Council;
 - any Executive decision to vire £500,000 or more in the budget presented to Council;
- to have a significant impact on communities living or working in an area comprising two or more wards in the council; or some councils have provision that under certain circumstances where there is likely to be significant impact on communities in one ward, this is regarded as a key decision unless it is considered impracticable to do so.

5.26 Key decisions are usually made by members – by Cabinet collectively, or by an individual member of Cabinet. However, Council constitutions can provide for the making of key decisions by officers.

5.27 In respect of functions like planning and licensing delegation is necessary to provide for efficient and effective decision-making on individual applications. Under these arrangements most planning and licensing decisions are made by officers, with certain decisions escalated to councillor panels, subject to recognised principles for escalation. In respect of planning in particular, delegation might be blanket in nature, with certain matters reserved to members “by exception”. Alternatively there might be specific and quite narrow circumstances in which delegated authority is to be exercised. Councils take a variety of approaches here. Inevitable, large, urban unitaries will probably tend to delegate more decisions to officers than smaller shire districts, purely for logistical reasons.

“Proper officer” functions

5.28 A “proper officer” is appointed by a local authority to carry out certain administrative functions as required by statute. Functions of a proper officer include receiving or giving notices, certifying or authenticating documents, keeping registers, and issuing summonses for meetings. A proper officer is empowered by statute to make certain decisions without recourse to the executive members or leader. Changes to Proper Officer appointments tend to follow from organisational changes and no changes are proposed.

PART 4 – PROCEDURAL RULES

Part 4a – Procedural Standing Orders

5.29 The procedural standing orders are based on the modular constitution set out in guidance issued as part of the preparations for the introduction of the Local Government Act 2000. The standing order are based on law and practice, their main purpose is to provide for the better regulation of proceedings at Council and other meetings but also include information about accessing meetings and documentation for both Councillors and members of the public. Part 4a has been reviewed to ensure that the procedural standing order are up to date and fit for purpose and no changes are proposed. **No changes are proposed to Part 4a – Procedural Standing Orders.**

Part 4b – Financial Regulations

5.30 The Financial Regulations and Procedures form part of the Council's Constitution (part 4b) and provide the framework rules for the management of the Council's finances. This responsibility includes ensuring that the Council complies with the law, implementing an effective system of governance, financial management and internal control, making proper arrangements for the management of risk, preparing accounts and budgets, undertaking effective internal audit, preventing and detecting fraud, and putting in place arrangements for securing economy, efficiency, and effectiveness in its use of resources, and achieving value for money. The Financial Regulations and Procedures are designed to demonstrate how the Council will meet these financial responsibilities. They apply to every Member and Officer of the Council and anyone in the public or private sector who acts on behalf of the Council. **The Financial Regulations were considered and amended by Council on 5 October 2021 and no changes are proposed at this stage.**

Part 4c – Procurement Standing Orders

5.31 These are standing orders made pursuant to s135 of Local Government Act 1972. Where such standing orders are made, they shall include provision for securing and regulating competition for contracts entered into. They may also include exemptions to such provisions under certain thresholds specified within the Standing Orders. Since the establishment of STAR Procurement, it has been considered essential that all partner authorities have a single set of Procurement Standing Orders in order to harmonise procurement processes and enable the shared service vehicle to deliver an effective and consistent procurement processes. **The Procurement Standing Orders were considered and amended by Council on 4 October 2022 so that they were in line with requirements of membership of STAR and no changes are proposed at this stage.**

Part 4d – Officers Employment Procedure Rules

5.32 Part 4d sets out the rules for the recruitment and discipline of officers of the Council and Member involvement. **No changes are proposed for this part of the Constitution.**

Part 4e – Access to Information Procedure Rules

5.33 Part 4e sets out rules concerning public access to meetings and the rules which must be followed when calling a meeting. These rules are based on law and there is little or no scope for amending other than to ensure in line with existing statutory requirements and **no changes are proposed.**

Part 4f – Budget and Policy Framework

5.34 Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2012 (SI 2012/2853), the full council must set the budgetary and policy framework of the authority within which the executive will operate. These Regulations, which were made under ss. 9EA, 9EB and 105 of the Local Government Act 2000 (in England), make provision for local authorities to discharge of executive functions by another local authority or the executive of another local authority. Specifically, the Regulations require the full council to:

- adopt or approve specified plans and strategies of the local authority;
- adopt or approve the budget and any plan or strategy for the control of the authority's borrowing or capital expenditure; and
- determine the scheme of members' allowances.

5.35 Part 4f requires updating to determine which items should be included as those currently included in some cases no longer exist. As part of this aspect of the review an assessment has been made of what policies and strategies form part of the Budget and Policy Framework at other Metropolitan Authorities. Part 4f also set out the procedure for call-in of items which are in breach of the budget and policy framework.

5.36 **Following an assessment of the content of other Local Authorities Budget and Policy Frameworks it is proposed that the policy framework be amended as set out in Article 4 in Appendix 1.**

Part 4g – Scrutiny Procedure Rules

- 5.37 Part 4g sets out the rules for the operation of scrutiny. This has been reviewed to ensure that it reflects current legislative requirements and practice at Tameside.

PART 5 – STANDARDS OF CONDUCT AND ETHICS

- 5.38 All elements of Part 5: Standards of Conduct and Ethics have been considered by the Standards Committee on 7 November 2023 and no changes are proposed.

Part 5a – Members Code of Conduct

- 5.39 The Members Code of Conduct was reviewed and amended by Council on 12 January 2021 following recommendations of the Standards Committee.
- 5.40 The purpose of this Code of Conduct is to assist councillors in modelling the behaviour that is expected of them, to provide personal checks and balances, and to set out the type of conduct against which appropriate action may be taken. It was also to protect councillors, the public, fellow councillors, council officers and the reputation of local government. It sets out the conduct expected of all members and a minimum set of obligations relating to conduct. The overarching aim is to create and maintain public confidence in the role of member and local government.

Part 5b – Whistleblowing Policy

- 5.41 This policy applies to everyone with a concern about wrong-doing in the council's activities, whether they are a Councillor, a council employee, a contractor, an associated party or a concerned member of the public. The purpose of the Whistleblowing Policy is to:
- Provide avenues to raise genuine concerns,
 - Allow people to take the matter forward if they are dissatisfied with the Council's response,
 - Reassure people that they will be protected from reprisals or victimisation for speaking up in good faith
- 5.42 The concern may be about something that:
- is unlawful (for example theft, fraud, bribery and corruption); or
 - breaks the Council's constitution; or
 - falls below established standards or practice; or
 - amounts to improper conduct; or
 - anything that makes you feel uncomfortable or that you think is wrong.

Part 5c – Anti Fraud, Bribery and Corruption Strategy

- 5.43 This strategy states that the consequences of fraud, bribery and corruption affect all employees, service users and council taxpayers as every pound lost results in fewer jobs, reduced services and higher council tax bills and can impact upon the Council's reputation and its ability to achieve its corporate objectives. The Council's aim is to foster a culture where fraud, bribery and corruption within our organisation is never acceptable, therefore it has formally decided that:
- We will not tolerate malpractice or wrongdoing. We are determined that all instances of malpractice will be fully investigated and will ensure that appropriate action is taken against all those concerned.
 - We believe that members of the public, Councillors, employees, contractors or any other interested party should feel able to report any cases of malpractice or wrongdoing without fear of recrimination.
 - All Councillors and employees are asked to exercise proper stewardship of public money, carry out all business fairly, honestly and openly, and put in place appropriate systems and procedures, incorporating efficient and effective internal controls, to prevent and detect fraud, bribery and corruption.

Part 5d – Members Planning Code

- 5.44 The aim of this Code is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way. This code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

Part 5e – Monitoring Officer Protocol

- 5.45. The Monitoring Officer is a statutory appointment under Section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged at Tameside Borough Council. The current responsibilities of the Monitoring Officer role rest with the Assistant Director (Legal Services) who undertakes to discharge their statutory responsibilities in a manner that enhances the overall reputation of the Council. In doing so they will also safeguard, so far as is possible, Members and Officers who are acting in their official capacities from legal difficulties and/or criminal sanctions.

Part 5f – Section 151 Officer Protocol

- 5.46 The Chief Finance Officer is a statutory appointment pursuant to Section 151 of the Local Government Act 1972. This Protocol provides some general information on how those statutory requirements will be discharged at Tameside Borough Council. The current responsibilities of the Chief Finance Officer role rest with the Director of Resources, who undertakes to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council.

Part 5g – Member Officer Protocol

- 5.47 The protocol seeks to maintain and enhance the integrity (real and perceived) of local government, which demands the highest standards of personal conduct. The Protocol sets out the roles of Members and Officers and how they should interact with each other.

Part 5h – Gifts and Hospitality

- 5.48 The purpose of this guidance note is to provide a guide to employees and Councillors about:
- * The legal rules on gifts and hospitality and what may happen if they are breached
 - * When gifts and hospitality may be accepted
 - * The procedure to follow if you are offered a gift or hospitality
 - * What to do if you think an employee or a Councillor has acted inappropriately

Part 6 – Members' Allowance Scheme

- 5.49 Tameside Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) Regulations 1991, and the Local Authorities (Members' Allowances) (England) Regulations 2001 and 2003 and any subsequent amendments has made the Members' Allowance Scheme included in the Constitution.
- 5.50 Changes to the Members Allowance Scheme should be made following a review by the Independent Remuneration Panel and subsequent recommendations to Council. However the amount paid for Basic Allowance, Special Responsibility Allowance and travel and subsistence are update in line with national changes and in uplifted in line with Local Government Pay awards.

Part 7 – Management Structure

- 5.51 This part of the Constitution sets out the Leadership structure of the Council, that is details of Chief Executive, Directors and those who report directly to them.
- 5.52 This part of the Constitution is updated following changes to the structure.

6 RECOMMENDATIONS

6.1 As set out on the front of the report.

APPENDIX 1

PROPOSED CHANGES TO PART 3A – TERMS OF REFERENCE AND SCHEME OF DELEGATION

Reference to Constitution	Existing Provision	Proposed Change	Reason for Change
Part 3a: F 55 (Place)	<p>55. To exercise the following powers under the Anti-social Behaviour, Crime and Policing Act 2014:</p> <ul style="list-style-type: none"> (i) The issue of Community Protection Orders in accordance with Part 4, Chapter 1, s43 (ii) To request injunctions from the Courts using the Power to Grant Injunctions in accordance with Part 1, s1. (iii) The issue of fixed penalty notices in accordance with Part 4, Chapter 1, s52, to anyone who has committed an offence under s48 of the act (failing to comply with a community protection notice) (iv) The issue of Public Space Protection Orders in accordance with Part 4, Chapter 2, s59 (v) The variation of Public Space Protection Orders in accordance with Part 4, Chapter 2, s61 (vi) The issue of closure notices for up to 24 hours in accordance with Part 4, Chapter 3, s76 	<p>To exercise all powers granted to the Local Authority under the Anti-social Behaviour, Crime and Policing Act 2014</p>	<p>The current provisions do not include all powers contained within the act.</p>

	(vii) The extension of closure notices for up to an additional 24 hours in accordance with Part 4, Chapter 3, s77		
Part 3a: F (Place)	2. The purchase of books, periodicals, records and similar material within the approved estimates.	<ol style="list-style-type: none"> 1. The purchase of books, periodicals, records and similar material within the approved estimates. 2. The sale, donation or disposal of library stock no longer in use. 	Library stock needs to be sold/donated or disposed of to ensure space for new library resource
Part 3a – A - All Officers Of The Senior Leadership Team	13. To write off bad debts and incorrect charges to a limit of £3,000 in any one case, following consultation with the Director of Resources and appropriate Executive Members for all other amounts.	To write off bad debts and incorrect charges to a limit of £5,000 in any one case, following consultation with the Director of Resources and appropriate Executive Members for all other amounts	Value increased to £5k
Part 3a: D (Resources)	15. The definition of applications for Housing Benefit in accordance with statutory requirements and the approved schemes.	The assessment of applications for Housing Benefit and Council Tax Support in accordance with statutory requirements and the approved schemes.	Need to include Council Tax Support
Part 3a: D (Resources)	20. The power to serve notice in accordance with the Non-Domestic Rating (Alteration of lists and Appeals) Regulations 2005, when such action is required to preserve the Authority's position on non-domestic rating and council tax valuation matters.	The power to serve notice in accordance with the Non-Domestic Rating (Alteration of lists and Appeals) Regulations 2005, and Council Tax (alteration of Lists and Appeals) (England) Regulations 2009 when such action is required to preserve the Authority's position on non-domestic rating and Council Tax valuation matters.	Need to include Council Tax matters

Part 3a: D (Resources)	21. To grant relief from non-domestic rates on the grounds of hardship.	To grant relief from non-domestic rates, and council tax on the grounds of hardship and housing benefit in accordance with relevant legislation.	Need to include council tax and housing benefit matters
Part 3a: D (Resources) New section	Not currently detailed	To issue council tax and business rates demand notices in accordance with legislation and to issue invoices for goods and services provided.	Need to include billing matters
Part 3a: D (Resources) New Section	Not currently detailed	To award reliefs/exemptions and discounts in respect of Business Rates and Council Tax in accordance with legislation	Business need
Part 3a:D (Resources) New section	Not currently detailed	To award Discretionary Housing Payments in accordance with Legislation and discretionary Council Tax Section 13A payments under legislation and policy	Business need
Part 3a: D (Resources) New section	Not currently detailed	To issue completion notices in respect of Council Tax and Business Rates in accordance with legislation	Business need
Part 3a: D (Resources) New section	Not currently detailed	To review decisions regarding Housing Benefit /Council Tax Support awards and Council Tax liability in accordance with legislation and to preserve the Authority's position in relation to Housing Benefit Tribunal hearings.	Business need
Part 2: Article 4	The policy framework means the following plans and strategies:-	The policy framework means the following plans and strategies:-	To reflect current legislative requirements.

	<p>(i) those required by law.</p> <ul style="list-style-type: none"> • Annual Library Plan; • Children and Young People’s Plan; • Community Strategy; • Crime and Disorder Reduction Strategy; • Local Transport Plan; • Plans and strategies which together comprise the Development Plan; • Youth Justice Plan; • Medium Term Financial Strategy; • Statement of Licensing Policy; • Local Authority Policy Statement under the Gambling Act 2005. <p>(ii) those recommended in Government guidance</p> <ul style="list-style-type: none"> • The plan and strategy which comprise the Housing Investment Programme; • Adult Learning Plan; • Local Agenda 21 Strategy; and • Quality Protects Management Action Plan <p>(iii) other plans and strategies which the Council may decide to adopt</p> <ul style="list-style-type: none"> • Vision for Tameside; • Capital Tameside; • E-Tameside; • Community Legal Services Partnership Strategy; and 	<p>(i) those required by law.</p> <ul style="list-style-type: none"> • Annual Library Plan; • Children and Young People’s Plan; • Community Strategy; • Crime and Disorder Reduction Strategy; • Local Transport Plan; • Plans and strategies which together comprise the Development Plan; • Youth Justice Plan; • Medium Term Financial Strategy; • Statement of Licensing Policy; • Local Authority Policy Statement under the Gambling Act 2005. • Pay Policy • Housing Strategy <p>(ii) other plans and strategies which the Council may adopt as Pension Authority in respect of the Greater Manchester Pension Fund.</p>	
--	---	---	--

	<ul style="list-style-type: none"> • Other plans and strategies submitted by the Cabinet <p>(iv) other plans and strategies which the Council may adopt as Pension Authority in respect of the Greater Manchester Pension Fund.</p>		
Part 3a A: Chief Executive (acting as Director of Pensions)	NEW	<p>To decide whether to offer voluntary scheme pays facility to members who have an annual allowance tax change; and if so, to decide the circumstances upon which it would do so;</p> <p>To determine the amount of an exit credit payable to a scheme employer who ceases to participate in the Scheme in accordance with the guidelines approved by the Pension Fund Management Panel.</p>	Legal changes to requirements of the Pension Fund

APPENDIX 2

Part 3d - Appointment of Statutory and Proper Officers

1. In this Constitution the posts set out below shall be the designated Statutory and Proper Officer for the Council and those posts shall undertake the specific responsibilities attached to the role of the specific Statutory and Proper Officer.
2. In the event of any Officers mentioned below being for any reason unable to act or of any of their posts being vacant, the Chief Executive or in his or her absence, the Monitoring Officer, and in the absence of both, the Section 151 Officer, shall nominate an Officer to act in their stead.
3. Until the Council decides otherwise the Chief Executive is appointed the Proper Officer for the purpose of all statutory provisions, whether existing or future, in respect of which no express Proper Officer appointment has, for the time being, been made.

Statutory Officers

Legislation	Section	Statutory Officer	Allocated To
Local Authority Social Services Act 1970	S6	Director of Social Services (Adult Services only)	Director (Adult's Services)
Local Government Act 1972	S151	Chief Finance Officer	Director (Resources)
Local Government and Housing Act 1989	S4	Head of Paid Service	Chief Executive
Local Government and Housing Act 1989	S5	Monitoring Officer	Assistant Director (Legal Services)
Education Act 1996	S532	Chief Education Officer	Director (Children's Services)
Children Act 2004	S18	Director of Children's Services	Director (Children's Services)
National Health Service Act 2006	S73	Director of Public Health	Director of Public Health

Proper Officers

Legislation	Section	Provision	Proper Officer
Any reference to any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October 1972 to the Town Clerk of a Borough which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.			Chief Executive
Any reference in any local statutory provision to the Clerk of the Council or similar which, by virtue of an order made under the Local Government Act 1972 or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council.			Chief Executive
National Assistance Act 1948	All	Public Health (misc)	Head of Health Protection (Greater Manchester) UK Health Security Agency and/or their

			duly authorised nominees
National Assistance (Amendment) Act 1951	All	Public Health (misc)	Head of Health Protection (Greater Manchester) UK Health Security Agency and/or their duly authorised nominees.
Registration Services Act 1953	S9(1) S3(b) S13(2)(h) S20(b)	Registration of Births, Deaths and Marriages	Chief Executive
		Registration of Births, Deaths and Marriages Regulations 1968 - 1994	Chief Executive
Local Government Act 1972	S13(3)	Parish Trustee	Chief Executive
	S83(1)-(4)	Witness and receipt of declaration of acceptance of office	Chief Executive
	S84	Receipt of declaration of resignation of office	Chief Executive
	S88(2)	Convening of meeting of Council to fill casual vacancy in office of Chair/Mayor	Chief Executive
	S89(1)(b)	Receipt of notice of casual vacancy from two local government electors	Chief Executive
	S96(1)	Receipt of notices of pecuniary interests	Chief Executive
	S94 & 96(2)	Keeping of record of disclosures and notice of pecuniary interests	Chief Executive
	S100(B)(2)	Circulation of reports and agendas	Chief Executive
	S100(B)(7)	Supply of papers to press	Chief Executive
	S100(C)(2)	Summary of minutes	Chief Executive
	S100(D)(1)(a)	Compilation of background papers	Chief Executive
	S100(D)(5)(a)	Identification of background papers	Chief Executive
	S100(F)	Identification of confidential documents not open to Members	Chief Executive
	S115(2)	Receipt of money due from Officers	Director of Resources
	S146(1) (a) & (b)	Declarations and certificates with regard to securities	Director of Resources
	S191	Functions in respect of Ordnance Survey	Director (Place)
S204(3)	Receipt of application for licence under Licensing Act 1964	Director (Place)	
S210(6) & (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities, or if there is no such office, to the Proper Officer	Assistant Director (Legal Services)	

	S225(1)	Deposit of documents	Chief Executive
	S228(3)	Accounts - to be open for inspection	Director (Resources)
	S229(5)	Deposit of documents - certification	(Monitoring Officer)
	S234	Authentication of documents	(Monitoring Officer)
	S234(2)	Statutory Notices under various Public Health and associated legislation	Director (Place)
	S236(9) & (10)	Service of Byelaws on other Authorities	(Monitoring Officer)
	S238	Certification of Byelaws	(Monitoring Officer)
	Schedule 14 Para 25(7)	Certification of resolutions - Para 25	(Monitoring Officer)
	S248 (2)	Keeping roll of Freeman	Chief Executive
	Schedule 12 Para 4(2)(b)	Signature of summons to Council	Chief Executive
	Schedule 12 Para 4 (3)	Receipt of notices regarding addresses which Summons to meeting are to be sent	Chief Executive
	Schedule 16 Para 28	Receipt of deposit lists of protected buildings	Director (Place)
	N/A	Any reference in any local statutory provision to the Treasurer of a specified Council or the Treasurer of a specified Borough which, by virtue of order made under Section 254 of the Local Government Act 1972, or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council	Director (Resources)
	N/A	Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October 1972 to the Treasurer or a Treasurer of a Borough which virtue of any provision of the said Act is to be construed as a reference to the Proper Officer of the Council	Director (Resources)
Local Government Act 1974	S30(5)	Notice of Local Government Ombudsman report	Chief Executive
Local Government (Miscellaneous Provisions) Act 1976	S41	Certification of copies of resolutions, Minutes, other documents	Chief Executive
Rent (Agriculture) Act 1976	All	Provision of alternative accommodation Regeneration and Architecture	Director (Place)
Local Authorities	All	Officer of the burial authority	Director (Place)

Cemeteries Order 1977	All	Registrar for various matters relating to cremation Health and to nominate a Medical Referee and Deputy Referees under the regulations	Director (Place)
Cremation Regulations	All	Registrar for various matters relating to cremation Health and to nominate a Medical Referee and Deputy Referees under the regulations	Director (Place)
Rent Act 1977	S15	Certificates of provision of suitable alternative Regeneration and Architecture Part IV accommodation	Director (Place)
Highways Act 1980	S37(5)	Deposit of Certificate of Dedication or copy order	Director (Place)
	S205(3)	Preparation of specification estimate and provisional appointment	Director (Place)
	S205(3)	Certification of copies of resolution and approved documents	Director (Place)
	S210(2)	Certifications of document giving details of estimate and consequential amendment of provisional appointment	Director (Place)
	S211(1)	Making final appointment	Director (Place)
	S216(2) & (3)	Settlement of proportion of amount	Director (Place)
Greater Manchester Act 1981	S60(5)(a)	Receipt of objections to proposals to designate places for touting, hawking, photographing etc.	(Monitoring Officer)
Rates Act 1984	S7	Certification of rate	Director (Resources)
Building Act 1984	S61(2)	Repair etc., of drain	Director (Place)
	S78	To act as "the surveyor" empowered to take and authorise emergency action in respect of damage to dangerous buildings, walls etc. To order the demolition of buildings rendered dangerous by damage, without prior authorisation of the Council	Director (Place)
Public Health (Control of Diseases) Act 1984	S11(1) S11(3) S18(1) S20(1) S21(1) S22(1) S23(2) S24(1) S26(2) S29(4) S30(2) S31(1) S32(1) S34(3), (5)	Control of Diseases (various)	Head of Health Protection (Greater Manchester) UK Health Security Agency and/or their duly authorised nominees and the Director of Public Health.

	S35(1) S36(1) S37(1) S38(1) S39(1), (3) S40 S41(1) S42(1) S43(1) S48(1) S50(2)(b) S51(1)		
Weights and Measures Act 1985	S72	Chief Inspector (Weights and Measures)	Director (Place)
Local Elections (Principal Areas) Rule 1986	Rule 44	Receipt from Returning Officer of names of persons elected to Council	Chief Executive
	Rule 46, 47	Receipt from Returning Officer of election documents	Chief Executive
	Rule 48, 49, 51	Retention of election documents and making them available for public inspection	Chief Executive
Elections	N/A	Registration Officer for any constituency or part of a constituency coterminous with or contained in the Tameside Metropolitan Borough	Chief Executive
	N/A	Returning Officer for the election of Councillors for the Tameside Metropolitan Borough	Chief Executive
	N/A	Officers who in the event of the Chief Executive being for any reason unable to act or in his/her absence authorised to undertake the full range of duties	(Monitoring Officer) and Head of Democratic Services
The Public Health (Infectious Diseases) Regulations 1988	Regs 6 Regs 8 Regs 9 Regs 10 Regs 11 Regs 12 Regs 13 Schedule 3 & 4	Infectious Diseases	Head of Health Protection (Greater Manchester) UK Health Security Agency and/or their duly authorised nominees.
Milk and Dairies (General) Regulations 1988	Part VII (Regulations 18 to 20)	Statutory Provision Pasteurisation Orders	Head of Health Protection (Greater Manchester) UK Health Security Agency and/or their duly authorised nominees
Local Government and Housing Act 1989	S2	Receipt of list of Politically Restricted Posts	Chief Executive
	S19	Members interests - notification	Chief Executive

	S15, 16, 17	Receipt of notices relating to Political Groups	Chief Executive
Environmental Protection Act 1990	S149	Stray dogs	Director (Place)
Council Tax (Administration and Enforcement) Regulations 1992	Reg 7	Service of Attachment of Earnings Orders	Director of Resources
The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000	to Regs 3 and 4	Recording of collective Executive Decisions Verification etc. of Mayoral Petitions	Chief Executive
The Local Authorities (Standing Orders) (England) Regulations 2000	Regs 3 and 4 and Schedule 1	Provision relating to the appointment and dismissal of staff	Chief Executive