

Report of City Solicitor

Report to General Purposes Committee

Date: 10th May 2017

Subject: Annual Review of the Constitution

Are specific electoral wards affected?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, name(s) of ward(s):		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for call-in?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, access to information procedure rule number:		
Appendix number:		

Summary of main issues

1. In accordance with Article 15 of the Council's constitution, and in her role as Monitoring Officer, the City Solicitor has undertaken a review of the constitution.
2. For the reasons set out in this report the Monitoring Officer recommends amendments to the constitution in order to ensure that it is up to date and fit for purpose.

Recommendations

1. General Purposes Committee are requested to make a recommendation to Full Council that the amendments to the following documents (as set out in this report and shown on the appendices attached) should be approved:-
 - Article 6 (Appendix D)
 - Article 13 (Appendix A)
 - Article 15 (Appendix H)
 - Officer Delegation Scheme (Council (non-executive) Functions):-
 - Director of Resources and Housing (Appendix B1)
 - Director of Communities and Environment (Appendix B2)
 - Scrutiny Board Terms of Reference (Appendix C)
 - Council Procedure Rules (Appendix E)
 - Community Committee Procedure Rules (Appendix F)
 - Chief Finance Officer Protocol (Appendix G)

1. Purpose of this report

- 1.1 This report sets out proposed amendments to the Council's constitution to ensure that it remains up to date and fit for purpose.
- 1.2 General Purposes Committee are requested to consider the report and recommend the relevant changes to Council.

2. Background information

- 2.1 Article 15 of the constitution makes provision for the review and revision of the constitution. In particular the Article sets out which person or body may make amendments to each of the documents in the constitution. Some documents are reserved to Full Council.
- 2.2 The Terms of Reference for General Purposes Committee require the committee to consider proposals to amend the constitution and make recommendations to full Council.
- 2.3 In addition the City Solicitor is authorised under Article 15 to make amendments to the constitution which are consequential upon the decisions taken by Council and the executive in relation to the annual review of the constitution.

3. Main issues

Article 13

- 3.1 The City Solicitor has considered performance indicators relating to the publication of Key decisions on the List of Forthcoming Key Decisions, and the exemption of Key decisions from Call In, together with comments provided to the Principal Corporate Governance Officer by officers involved in the decision making process.
- 3.2 An emerging trend has been that difficulties are encountered in trying to comply with statutory requirements in relation to Key decisions where those decisions arise from the receipt of external funding from government departments and from other partners in the public and private sectors. Often decisions are made by potential funders very late in the process and embargos are placed on publicity in relation to potential funding packages. This causes difficulties in being able to publish information on the List of Forthcoming Key Decisions as pertinent information is confidential. Five out of the six decisions taken under the general exception and special urgency provisions between April '16 and March '17 came into these procedures because requirements of external funders led to delays in publishing.
- 3.3 For this reason the City Solicitor recommends that decisions in relation to the receipt of external funding are added to the list of decisions which are exempt from the category of Key decisions. Members should note that although exempt from the prior publicity required in relation to Key decisions, high value decisions which are exempt from Key will be categorised as Significant Operational Decisions and will therefore be subject to the requirement to publish as soon as practicable after the decision is taken.
- 3.4 In addition, following consultation with Directors, the City Solicitor recommends some amendments to the drafting of the definition of a Key decision, to make it clearer that high value / high impact decisions which are not categorised as Key (as a result of the various exemptions set out in the definition) must be treated as Significant Operational Decisions.

- 3.5 The proposed amendments to Article 13 are shown at Appendix A attached.

Officer Delegations

- 3.6 Amendments are proposed to the officer delegation scheme shown at Appendices B1 and B2 attached. These transfer responsibility for the regulatory functions in respect of caravan sites to the Director of Resources and Housing from the Director of Communities and Environment. Both Directors have been consulted and are content with the proposals.

Scrutiny Board Terms of Reference

- 3.7 Following consultation, the Leader recommends that the overview and scrutiny functions continue to be shared between six Scrutiny Boards but that these are realigned to reflect the council's current priorities as follows:-

- **Strategy and Resources**

Bringing together the council's central strategic and regulatory functions. This continues the arrangements for 2016/17 into the new municipal year with the addition of elections, registrars, licensing, local land charges and council tax processing previously considered by the citizens and communities board.

- **Infrastructure and Investment**

Bringing together the council's development and infrastructure functions to monitor the council's progress in relation to transport and planning, regeneration and housing growth.

These functions were previously part of City Development. The separation of functions between this and Inclusive Growth, Culture and Sport enable sufficient focus on these key areas.

- **Inclusive Growth, Culture and Sport**

Bringing together the council's economic growth functions to monitor the council's progress as a strong and compassionate city promoting opportunities for access to learning, skills and employment for all. The committee will oversee the cultural and sport related functions of the council and activity in the city.

These functions were previously part of City Development. The separation of functions between this and Infrastructure and Investment enable sufficient focus on these key areas.

- **Environment, Housing and Communities**

Bringing together services affecting the lives of citizens living and working in the council's neighbourhoods to monitor the council's progress as a citizen focussed city prioritising environmental sustainability.

This continues the arrangements for 2016/17 for environment and housing whilst adding functions relating to communities which were previously considered by the citizens and communities board.

- **Children and Families**

Focussing on services affecting the lives of children and families in the city to monitor the council's progress as a child friendly city putting children first.

This continues the arrangements for 2016/17 into the new municipal year

- **Adults and Health**

Bringing together social services for adults and universal public health services to monitor the council's progress in improving health, lifestyles and quality of care across the city driving integration and partnership with health bodies.

This continues the arrangements for 2016/17 into the new municipal year

- 3.8 To ensure transparency in relation to the council's scrutiny arrangements the Head of Governance and Scrutiny Support recommends that one document defines the Terms Of Reference of all Scrutiny Boards (Appendix C attached), and that the variations in their remit, together with their special responsibilities, are captured within Article 6 of the constitution (Appendix D attached).

Council Procedure Rules

- 3.9 Following Whips agreement and to provide certainty an amendment is proposed to the Council Procedure Rules (as shown at Appendix E attached) to show that the relevant portfolio holder shall be allowed a period of five minutes to sum up in relation to the consideration of executive board minutes in the portfolio under discussion when the relevant time period expires.
- 3.10 An additional amendment is proposed to enable the Chair of the Health and Wellbeing Board to use up to four minutes of the twenty minutes allocated for consideration of the Health and Wellbeing Board Minutes to sum up on the issues raised. This reflects the practice in Council during the 16/17 Municipal Year.

Community Committee Procedure Rules

- 3.11 Amendments are proposed to the Community Committee Procedure Rules to reflect agreement reached by the Whips in relation to the procedure for the appointment of chairs. The amended procedure, Appendix F attached, provides for all ten community committee chairs to be elected at the annual meeting of council. This procedure, which provides for election of each chair by the members of the relevant committee unless a majority vote cannot be established, will enable a simpler and consistent election process for all community committees making more efficient use of council resources.

Chief Finance Officer Protocol

- 3.12 The Chief Finance Officer is a statutory officer appointed in accordance with Section 151 Local Government Act 1972. The attached Chief Finance Officer Protocol has been drafted to mirror the Monitoring Officer Protocol which is considered to be a sister document. It is recommended that the Protocol, attached as Appendix G, be included within the constitution to provide certainty in relation to the rights and responsibilities of the Chief Finance Officer.
- 3.13 The Chief Finance Officer has drafted the proposed protocol and consulted both the outgoing Deputy Chief Executive (the council's previous Chief Finance Officer) and the Director of Resources and Housing, both of whom were content with the proposed draft.
- 3.14 Further to this it is recommended that Article 15 should be amended, as shown at Appendix H attached, to show that the Corporate Governance and Audit Committee is authorised to make amendments to the Chief Finance Officer Protocol. The Chair of Corporate Governance and Audit Committee has been consulted and is content with these arrangements. The amended document has also been updated to show the change in title to Corporate Governance Code and Framework following the Corporate Governance and Audit Committee review of the Code of Corporate Governance.

4. Corporate considerations

4.1 Consultation and engagement

4.1.1 Consultation has taken place in relation to each proposal as detailed above.

4.2 Equality and diversity / cohesion and integration

4.2.1 There are no implications for this report.

4.3 Council policies and best council plan

4.3.1 All amendments are in line with the Council's Corporate Governance Code and Framework, particularly with regard to ensuring we have clear responsibilities and arrangements for transparent and effective accountability; taking informed and transparent decisions and ensuring that we have robust and effective audit, scrutiny, information governance, risk and financial management controls.

4.4 Resources and value for money

4.4.1 There are no implications for this report.

4.5 Legal implications, access to information, and call-in

4.5.1 The amendments proposed are in line with legislation and bring the constitution up to date.

4.5.2 This report is not available for call-in.

4.6 Risk management

4.6.1 There are no implications for this report.

5. Conclusions

5.1 The proposed amendments to the constitution will ensure that it is up to date and fit for purpose.

6. Recommendations

6.1 General Purposes Committee are requested to make a recommendation to Full Council that the amendments to the following documents (as set out in this report and shown on the appendices attached) should be approved

- Article 6 (Appendix D)
- Article 13 (Appendix A)
- Article 15 (Appendix H)
- Officer Delegation Scheme (Council (non-executive) Functions):-
 - Director of Resources and Housing (Appendix B1)
 - Director of Communities and Environment (Appendix B2)
- Scrutiny Board Terms of Reference (Appendix C)
- Council Procedure Rules (Appendix E)

- Community Committee Procedure Rules (Appendix F)
- Chief Finance Officer Protocol (Appendix G)

7. Background documents¹

7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.