



Report of the Assistant Chief Executive (Corporate Governance)

Full Council – annual meeting

Date: 27 May 2010

Subject: Recommendations from General Purposes Committee

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report sets out recommendations to Council from the General Purposes Committee at its meeting on 18 May 2010, relating to amendments to the Constitution. The principal recommendations are detailed below.
2. General Purposes Committee recommend amendments for clarification or updating purposes to the summary and explanation, and to Articles 1, 3, 4, 6, 8A, 9, 12 and 13.
3. General Purposes Committee recommend that seven Scrutiny Boards are retained for the municipal year 2010/11.
4. General Purposes Committee also recommend amendments to the terms of reference for:
 - Scrutiny Boards;
 - Standards Committee;
 - Corporate Governance and Audit Committee;
 - Employment Committee;
 - Member Management Committee;
 - Licensing Committee; and
 - Licensing and Regulatory Panel.
5. General Purposes Committee recommend a number of additional minor amendments to the officer delegation scheme - (council (non-executive) functions), to the officers detailed within paragraphs 3.38 – 3.46 of the report.

6. General Purposes Committee recommend minor amendments to the Council Procedure Rules, for clarification and updating, (including an amendment to Rule 26.3, to clarify the duties and powers of substitute members).
7. General Purposes Committee reviewed current Rule 22.7 of the Scrutiny Board Procedure Rules, which requires a request for call-in to contain the original signature of those calling-in the decision. The Committee recommend that the provision be retained, but subject to further review in a year's time.
8. However, General Purposes Committee recommend other amendments to the Scrutiny Board Procedure Rules, for updating and clarification (including to Rule 4, to widen the provision for substitute members).
9. General Purposes Committee recommend a minor amendment to the Appointments to Outside Bodies Procedure Rules, in relation to appointments arising outside the annual review.
10. General Purposes Committee also recommend an amendment to the Members' Allowances Scheme to suspend the annual updating of allowances under paragraph 5 of the scheme, for a period of two years.

1.0 Purpose Of This Report

- 1.1 This report presents recommendations to Council from the General Purposes Committee, for amendments to the constitution.

2.0 Background Information

- 2.1 General Purposes Committee is authorised to consider proposals to amend the constitution, and make recommendations to full Council. At its meeting on 18 May 2010, the General Purposes Committee considered a number of items proposing amendments to the constitution, as follows:
- Employment Committee terms of reference;
 - Licensing Arrangements;
 - Overview and Scrutiny – amendments to the constitution;
 - Review of call-in procedure (original signatures on call-in request form);
 - Annual review of the constitution; and
 - Responding to the recommendations of the Independent Remuneration Panel.
- 2.2 This report sets out the recommendations from General Purposes Committee following consideration of those items.

3.0 Main Issues

Part 1 - Summary and Explanation

- 3.1 General Purposes Committee recommend amendments for updating and clarification:
- to clarify that the constitution consists of the Articles and other parts of the constitution;
 - to insert a reference to the Strategic Plan;
 - to reflect the current position in relation to deputations; and
 - to clarify citizens' rights in relation to Scrutiny Boards.
- 3.2 The amendments are set out in appendix 1 to this report.

Part 2 – the Articles

Article 1 (The constitution)

- 3.3 General Purposes Committee recommend that this is amended to clarify that Parts 1-7 are all part of the constitution. The amendment is set out in appendix 2 to this report.

Article 3 (Citizens and the Council)

- 3.4 General Purposes Committee recommend the following amendments:
- to clarify in footnote 1, that citizens' rights to information are subject to the provisions in the access to information procedure rules;
 - to update the provisions relating to deputations;
 - to clarify citizens' rights to participate in Scrutiny Board investigations;
 - to insert a reference to citizens' rights to inspect the register of Members' interests.
- 3.5 The amendments are set out in appendix 3.

Article 4 (The Full Council)

- 3.6 General Purposes Committee recommend that a footnote be inserted into 4.2, to clarify that the provision that “only the Council will adopt and change the constitution” is subject to Article 15, which sets out further detail about the process for amending the constitution, including the delegation of this function. The amendment is set out in appendix 4 to this report.

Article 6 (Scrutiny Boards)

- 3.7 Under new Section 21ZA of the Local Government Act 2000, the Council is under a statutory duty to designate one of their officers as “Scrutiny Officer”. The General Purposes Committee recommend that the Council designates the Head of Scrutiny and Member Development as the Scrutiny Officer, and that an amendment is approved to Article 6, to reflect the designation and duties of the Council’s Scrutiny Officer. (See also paragraph 3.49 in relation to amendments to the Scrutiny Board Procedure Rules.)
- 3.8 General Purposes Committee also recommend the following amendments to Article 6:
- additional bullet point to state that Scrutiny Boards carry out value for money reviews on particular services, functions or issues – see further paragraph 3.22 below;
 - minor change to footnotes to update the names of NHS bodies; and
 - to update the reference to power to co-opt onto the Crime and Disorder Committee, following recent amendments to legislation¹.
- 3.9 These amendments are set out in appendix 5 to this report.

Article 8A (Licensing Arrangements)

- 3.10 The General Purposes Committee recommend that Article 8A is amended:
- to clarify that the Licensing Committee can carry out functions which are not licensing functions but which are referred to it by virtue of Section 7 of the Licensing Act 2003; and
 - to require Members to undergo compulsory training.
- 3.11 The amendments are set out in appendix 6 to this report.

Article 9 (Governance Committees)

- 3.12 General Purposes Committee recommend that a footnote is added to 9.2.2, reflecting Section 102(3) of the Local Government Act 1972, to clarify that the Chair of the Standards Committee will take no part in any business of the committee relating to the regulation or control of the finance of the local authority.
- 3.13 General Purposes Committee also recommend that 9.3.2 is amended to clarify that the terms of reference for all of the Standards Committee’s Sub-Committees are set out in Part 3, Section 2B of the Constitution.
- 3.14 These amendments to Article 9 are set out in appendix 7.

¹ Crime and Disorder (Overview and Scrutiny) Regulations 2009 as amended

Article 12 (Officers)

- 3.15 General Purposes Committee recommend:
- that 12.2 which lists the functions of the Monitoring Officer, is expanded to include the additional functions listed within the Monitoring Officer Protocol; and
 - amendments to the post-titles of three officers, to reflect the titles they were given on appointment – see paragraph 3.46 below.
- 3.16 These amendments are set out in appendix 8.

Article 13 (Decision Making)

- 3.17 General Purposes Committee recommend that a footnote is added to 13.5(b), to exclude from the definition of a Key Decision, decisions in relation to:
- making, payment or borrowing of loans under treasury management; and
 - the purchasing of energy under existing energy contracts.
- 3.18 This will enable these decisions to be made promptly in response to the prevailing financial climate².
- 3.19 The amendments to Article 13 are set out in appendix 9 attached.

Article 16 (Suspension, interpretation and publication of the constitution)

- 3.20 General Purposes Committee considered a proposal from the Assistant Chief Executive (Corporate Governance) that 16.3 is amended to bring it in line with Section 37 Local Government Act 2000, given the wide access to the constitution through its publication on the Council's internet site. However, Members considered that it was important for hard copies of the constitution to continue to be available to the public. General Purposes Committee do not therefore make any recommendations to change this Article.

Part 3

Scrutiny Boards' terms of reference

- 3.21 Members of the Committee discussed the number of Scrutiny Boards which should be established. They discussed the financial implications of reducing the number of boards, and the implications for the work-load of other Scrutiny Boards, from not re-establishing the Scrutiny Board (City and Regional Partnerships). The Committee recommend that the seven current Scrutiny Boards are retained, subject to their terms of reference being amended as set out below.
- 3.22 General Purposes Committee recommend the following amendments to Scrutiny Boards' terms of reference:
- to amend the terms of reference of all Scrutiny Boards to specify that the Boards may undertake value for money reviews in relation to functions within their remit;

² If full Council approve this amendment, the Assistant Chief Executive (Corporate Governance) proposes under her delegated authority, to amend the Guidance Notes on Delegated Decision making, so that, to retain accountability, these decisions would be identified as Significant Operational Decisions, and not Key or Major decisions. She also proposes to add a footnote to clarify that treasury management decisions will not be subject to the usual reporting provisions for significant operational decisions, but that reports to the Executive Board will be made twice each year, setting out the overall position in relation to making, payment and borrowing of long term loans under treasury management.

- to amend footnotes to the terms of reference of the Scrutiny Board (Environment and Neighbourhoods) to reflect the post-titles of relevant officers; and
- to amend the terms of reference of the Scrutiny Board (Health) to update the names of NHS bodies and to remove a reference to repealed legislation.

3.23 The amendments are shown on the attached appendices 10 - 16.

Standards Committee's terms of reference

3.24 General Purposes Committee recommend that footnote 10 of the terms of reference is amended to reflect the change from "Adjudication Panel for England" to "First-Tier Tribunal (Local Government Standards in England)", as it is now known.

Corporate Governance and Audit Committee's terms of reference

3.25 General Purposes Committee recommend amendments to the terms of reference:

- to replace the reference to the Statement on Internal Control, with a reference to the "Annual Governance Statement", as it is known in Leeds;
- to insert a new footnote to clarify that the Annual Governance Statement is Leeds City Council's Statement on Internal Control.

3.26 The amendments are set out in appendix 17 to this report.

Employment Committee's terms of reference

3.27 As a result of a review of policies and procedures applying to senior staff, the Assistant Chief Executive (Corporate Governance) identified omissions in the current terms of reference for Employment Committee. General Purposes Committee recommend that the terms of reference of the Employment Committee are amended to provide the following additional functions for the Committee:

- to take disciplinary action short of dismissal against the Chief Executive and to consider appeals against such action;
- to consider grievances and related appeals relating to the Chief Executive; and
- to suspend the Chief Executive, Monitoring Officer, or Director of Resources for up to two months.

3.28 The amendments would ensure that the Council has clear processes and procedures for regulating the conduct of all of its officers, and for dealing with any grievances they may have.

3.29 The amendments are shown on appendix 18 to this report.

Member Management Committee's terms of reference

3.30 Existing terms of reference for the Member Management Committee enable it to act as an advisory body on practices and procedures affecting Elected Members, but do not specifically refer to Member accommodation matters. General Purposes Committee recommend amendments to the terms of reference to allow the committee to represent the views of Members on such matters to the Executive.

3.31 The amendments are set out in appendix 19 to this report.

Licensing Committee's terms of reference

- 3.32 Under Section 7(3) Licensing Act 2003, full Council can refer functions other than licensing functions to the Licensing Committee. General Purposes Committee recommend to Council that it refer the function of making an Alcohol Disorder Zone³, to the Committee under this provision, as a function relating existing licensing functions. (An area can be designated an Alcohol Disorder Zone where there is a problem with alcohol related nuisance, crime and disorder, but there is no clear link between the problem, and an individual licensed premises).
- 3.33 The function of making a Designated Public Places Order in respect of alcohol consumption has already been referred to the Licensing Committee under the same provision. The General Purposes Committee further recommend that for clarity, the terms of reference be amended to incorporate this function, too.
- 3.34 The amendments are set out in appendix 20 to this report.

Licensing and Regulatory Panel's terms of reference

- 3.35 General Purposes Committee recommend that the terms of reference for the Licensing and Regulatory Panel are amended to include new powers to licence sexual entertainment venues⁴.
- 3.36 The amendment is shown in appendix 21 to this report.

Officer Delegation scheme – Council (non-executive) functions

- 3.37 The Officer Delegation Scheme – Council (non-executive) functions currently provides for Directors and Chief Officers with concurrent authority, to sub-delegate to officers “of suitable experience and seniority”. In her report to the Committee, the Assistant Chief Executive (Corporate Governance) proposed that this be amended to “experience or seniority.” This would allow an officer who is newly appointed to a post, to exercise the sub-delegation whatever their experience, provided they are of suitable seniority. However, the General Purposes Committee do not recommend this amendment at this time, and have asked for a further report to be brought forward in the new municipal year.

Assistant Chief Executive (Corporate Governance)

- 3.38 General Purposes Committee recommend that the delegation to the Assistant Chief Executive (Corporate Governance) is amended:
- to remove reference to the licensing of game dealers, as the function no longer rests with the authority;
 - refer to the Police Act 1996 in place of the Police Act 1998;
 - to include power to license performances of hypnotism; and
 - to include power to license sexual entertainment venues (where no objections have been received).
- 3.39 These amendments are set out at appendix 22 to this report.

³ Under the Violent Crime Reduction Act 2006

⁴ Local Government (Miscellaneous Provisions Act 1982), as amended by the Policing and Crime Act 2009

Director of City Development

- 3.40 General Purposes Committee recommend that an explanatory footnote is inserted into the scheme of delegation to the Director of City Development, to clarify that the power to make a limestone pavement order is not included in the delegation as there are none in the Leeds area.

Chief Planning Officer

- 3.41 General Purposes Committee recommend footnote 5 is removed from the delegation to the Chief Planning Officer, since the Directions referred to in the footnote have been cancelled. The paragraph to which the footnote related remains relevant in planning terms, and General Purposes Committee therefore recommend this paragraph is left in place. The amendment is set out at Appendix 23 to this report.

Chief Recreation Officer

- 3.42 General Purposes Committee recommend that an exception is made to the delegation to the Chief Recreation Officer, to prevent the Chief Recreation Officer exercising the delegation in the event that the Director of City Development so directs. (A similar exception is in place for all other delegations to Chief Officers).
- 3.43 General Purposes Committee also recommend that a footnote is inserted, to reflect the position re limestone pavements, as set out in paragraph 3.40 above.
- 3.44 The amendments to the delegation scheme for the Chief Recreation Officer are set out in appendix 24 to this report.

Director of Environment and Neighbourhoods

- 3.45 General Purposes Committee recommend that, for completeness, a footnote is inserted into the scheme of delegation to the Director of Environment and Neighbourhoods to indicate that the duty to keep a list of persons entitled to sell non-medicinal poisons is intentionally not delegated to these officers, because the duty is exercised by officers of the West Yorkshire Trading Standards on behalf of all local authorities in the area.

Chief Officer (Environmental Services), Chief Officer (Housing Services) and Chief Officer (Regeneration)

- 3.46 General Purposes Committee recommend that the officer delegation scheme is amended so that the titles of the above officers exactly reflect the titles to which they were appointed – that is, the Chief Environmental Services Officer, Chief Housing Services Officer and Chief Regeneration Officer.

Part 4

Council Procedure Rules

- 3.47 General Purposes Committee recommend amendments to the Council Procedure Rules as set out in appendix 25 to this report. The principal amendments are:
- to clarify Rule 1.1(g) so the reference is to committees only (and this reference is used consistently throughout the Rules), and to provide that any reference within

the Rules to committees established under Rule 1.1 (g), shall be construed as including any other committees established during the municipal year;

- to simplify Rule 2.2 by deleting the reference to each specific committee, and replace with a new (h) “to consider any recommendation of the Executive Board, and committees established under Rule 1.1(g) and any sub-committees thereof.” (This will ensure that the Rule will always reflect whatever committee structure is current).
- to insert references to “sub-committees” in the Rules for consistency where relevant.
- to update Rule 11.1(b) to “West Yorkshire Integrated Transport Authority”;
- to amend Rule 26.3 to clarify that a substitute member shall be for all purposes a duly appointed member of the committee. The effect of the amendment is to confirm that a substitute member will **not** have any special powers or duties of the member for whom they are substituting; and
- to amend Rule 28 to clarify the quorum requirements of the Standards Committee and its Sub-Committees.

Scrutiny Board Procedure Rules

- 3.48 General Purposes Committee recommend a number of amendments to the Rules as set out in appendix 26, mainly for clarification and updating only. The Committee discussed whether to widen substitute arrangements for Scrutiny Boards, which currently provide for substitutes at call-in meetings only. Members discussed the need to secure sufficient attendance at meetings, and the conflicting need to secure continuity of membership, particularly for Inquiries. The Committee recommend amending Rule 4 to widen the provision for substitute members to attend Scrutiny Board meetings.
- 3.49 Other amendments to the Rules include amendments:
- to update the names of NHS bodies;
 - to distinguish between reviews (and other items of work) which may result in reports and recommendations, and full Scrutiny Inquiries which involve formal terms of reference, the use of the Inquiry selection criteria and formal discussion with the relevant Executive Board Member;
 - to amalgamate paragraphs describing how requests for Scrutiny are managed to ensure consistency;
 - to include specific reference to “Partner Authorities”, including new powers for Scrutiny Boards to require information, reflecting legislation;⁵
 - to clarify that should a Member withdraw their signature from a Call In and no further signatures are obtained within the required time period, the Call In will fall;
 - to amend all references to the “Proper Officer” to “Scrutiny Officer” – see above;
 - to clarify Rule 17.2 relating to the duty of Members and officers to attend and answer questions; and
 - to delete Rule 25, referring to the annual report, since this is duplicated in Article 6.
- 3.50 The Scrutiny Board also specifically reviewed the requirement in the Rules for an original signature on the request for call-in. The Head of Scrutiny and Member Development reported that no administrative difficulties had arisen from the requirement, so far as he was concerned. Nor did Members report any difficulties in

⁵ Local Authorities (Overview and Scrutiny Committees)(England) Regulations 2009.

complying with it. The Committee resolved to recommend that the requirement should be retained, but subject to further review in a year's time.

Appointments to Outside Bodies Procedure Rules

- 3.51 General Purposes Committee recommend that Rule 2 is amended to deal with requests for appointment to a body arising outside the annual review. The amendment is set out in appendix 27 to this report.

Part 6 – Members' Allowances Scheme

- 3.52 General Purposes Committee considered a late report brought forward at the request of the Labour Group, asking General Purposes Committee to consider a recommendation to full Council that a footnote be inserted into Section 3, Part 2A of the Constitution, relating to the function of full Council with regard to approving the Members' Allowances Scheme. The proposal was that this function would be carried out "acting in accordance with the recommendations of the Independent Remuneration Panel save in wholly exceptional circumstances." The Committee do not however recommend this amendment.
- 3.53 However, further to a motion moved at the meeting, the Committee recommend that the Council should amend the Members' Allowances Scheme, so that no annual updating should take place for two years, in view of the prevailing financial conditions.
- 3.54 To effect this, an amendment would need to be made to Paragraph 5 of the Members' Allowances Scheme, as set out in the attached appendix 28.

4.0 Implications For Council Policy And Governance

- 4.1 It is in accordance with good governance principles to review and update the constitution regularly.

5.0 Legal And Resource Implications

- 5.1 The amendments proposed will update the constitution in accordance with legislative changes. There are no resources implications arising from the proposed amendments.

6.0 Conclusions

- 6.1 The constitution should be amended to keep it up to date with legislation, and to clarify responsibilities.

7.0 Recommendations

- 7.1 General Purposes Committee recommend to Council to:
- 7.1.1 Designate the post of the Head of Scrutiny and Member Development as its Scrutiny Officer in accordance with Section 21ZA of the Local Government Act 2000 in accordance with paragraph 3.7 of this report,
- 7.1.2 Retain seven Scrutiny Boards (subject to the amendments to their terms of reference set out below) in accordance with paragraph 3.21 of this report,

7.1.3 Retain the current requirement in the Scrutiny Board Procedure Rules for an original signature to requests for call-in, subject to a further review of the requirement in a year's time in accordance with paragraph 3.50 of this report; and

7.1.4 Approve the following amendments to the constitution:

- (a) to the summary and explanation, as set out in appendix 1 to this report;
- (b) to Article 1, as set out in appendix 2 to this report;
- (c) to Article 3, as set out in appendix 3 to this report;
- (d) to Article 4 as set out in appendix 4 to this report;
- (e) to Article 6 as set out in appendix 5 to this report;
- (f) to Article 8A as set out in appendix 6 to this report;
- (g) to Article 9 as set out in appendix 7 to this report;
- (h) to Article 12 as set out in appendix 8 to this report;
- (i) to Article 13 as set out in appendix 9 to this report;
- (j) to the Scrutiny Boards' terms of reference as set out in appendices 10-16 to this report;
- (k) to the Standards Committee's terms of reference, as set out in paragraph 3.24 of this report;
- (l) to the Corporate Governance and Audit Committee's terms of reference as set out in appendix 17 to this report;
- (m) to the Employment Committee's terms of reference, as set out in appendix 18 to this report;
- (n) to the Member Management Committee's terms of reference, as set out in appendix 19 to this report;
- (o) to the Licensing Committee's terms of reference, as set out in appendix 20 to this report;
- (p) to the Licensing and Regulatory Panel's terms of reference, as set out in appendix 21 to this report;
- (q) to the delegation to the Assistant Chief Executive (Corporate Governance) as set out in appendix 22 to this report;
- (r) to the delegation to the Director of City Development as out in paragraph 3.40 of this report;
- (s) to the delegation to the Chief Planning Officer as set out in appendix 23 to this report;
- (t) to the delegation to the Chief Recreation Officer as set out in appendix 24 to this report;

- (u) to the delegation to the Director of Environment and Neighbourhoods, as set out in paragraph 3.45 of this report, and to delegation to the Chief Officers within that directorate, in relation to their post-titles only, as set out in paragraph 3.46;
- (v) to the Council Procedure Rules, as set out in appendix 25 to this report;
- (w) to the Scrutiny Board Procedure Rules, as set out in appendix 26 to this report, including an amendment to Rule 4, in relation to substitute arrangements at Scrutiny Boards;
- (x) to the Appointments to the Outside Bodies Procedure Rules, as set out in appendix 27 to this report; and
- (y) to paragraph 5 of the Members' Allowances Scheme, so that no annual updating should take place for two years, as set out in appendix 28 to this report.

7.2 General Purposes Committee also recommend that full Council note the consequential amendments which the Assistant Chief Executive (Corporate Governance) proposes to make under her delegated authority to the Guidance Notes on Delegated Decision Making, should full Council approve the amendments to Article 13.

Background information

The following reports of the Assistant Chief Executive (Corporate Governance) considered by the General Purposes Committee on 18 May 2010:

- Employment Committee terms of reference;
- Licensing arrangements;
- Annual review of the constitution;

Also, the reports of the Chief Democratic Services Officer to the same committee:

- Overview and Scrutiny- proposed changes and amendments to the constitution;
- Review of call-in procedure rules;
- Responding to recommendations of the Independent Remuneration Panel.