

Subject: Use by the Monitoring Officer and her Deputies of power under Article 15.2.3 of Constitution

Date: 24 July 2024

Report of: City Solicitor

Report to: General Purposes Committee

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

Following the adoption of an amended Article 15 by Full Council on 26th May 2022 this report updates General Purposes Committee of the use of the powers under Article 15.2.3 of the Constitution by the Monitoring Officer since they were last reported on 26 July 2023.

Recommendations

General Purposes Committee are requested to note the use of the powers of the Monitoring Officer.

What is this report about?

1. Article 15.2.3 provides power for the Monitoring Officer to update the Constitution under the following circumstances:
 - i. as a result of legislative change or decisions of the Council or Executive to enable him/her to maintain it up to date;
 - ii. for the purposes of clarification only; or
 - iii. where the Monitoring Officer is of the opinion such changes are de minimus and required for administrative or updating purposes only and for which there is unanimous agreement between the Leader of each political group or
 - iv. to Part 5(d) Protocol for the Roles of Members and Officers in Decision Making in consultation with the Leader of the Council, Opposition Members of Executive Board and the Chief Officer Financial Services.
2. This report updates General Purposes Committee as to the use of the above power by the Monitoring Officer since 26 July 2023.

3. Since then, the Monitoring Officer has approved five amendments to the Constitution pursuant to Article 15.2.3, the detail of which is set out in paragraphs 4 – 7 below.
4. On 18 March 2024 two consequential changes were made (i) to the Members' Allowances Scheme to reflect Full Council's consideration and approval of recommendations made by the Independent Remuneration Panel The Delegated Decision Notice (DDN) reference D57283 can be accessed [here](#) and (ii) to amend the Budget and Policy Framework following Full Council's approval of the Best City Ambition Update 2024. The Delegated Decision Notice (DDN) reference D57286 can be accessed [here](#).
5. On 15 May 2024 changes were made throughout the constitution to update references to organisations, post titles and to reflect legislative changes. The DDN reference D57443 can be accessed [here](#).
6. On 3 June 2024 changes were made to Article 6 (Scrutiny Boards) and the Scrutiny Board Procedure Rules to reflect legislative changes introduced by the Health and Care Act 2022. The DDN reference D57492 can be accessed [here](#).
7. Finally, on 12 June 2024 a minor amendment to the Executive and Decision Making Procedure Rules was made to rectify an erroneous paragraph reference. The DDR reference D57502 can be accessed [here](#).

What impact will this proposal have?

8. The updating of the Constitution ensures that it is lawful, fit for purpose and reflective of current practices.

How does this proposal impact the three pillars of the Best City Ambition?

- Health and Wellbeing
 Inclusive Growth
 Zero Carbon

9. N/A

What consultation and engagement has taken place?

Wards affected: n/a

Have ward members been consulted? Yes No

10. Prior to each amendment the required consultation was undertaken.

What are the resource implications?

11. None

What are the key risks and how are they being managed?

12. The key risk is that the Constitution is not kept up to date and this could result in a successful legal challenge. This risk is managed by ensuring that the Constitution is regularly reviewed and updated as necessary in a timely manner, and the powers granted to the Monitoring Officer to do this mitigate the risk.

What are the legal implications?

13. Amendments to the Constitution are required from time to time to ensure that it is fit for purpose and up to date. The legal implications are that there is a risk of a successful legal challenge if the Constitution is not kept up to date.

Options, timescales and measuring success

What other options were considered?

14. None

How will success be measured?

15. N/A this report is for information.

What is the timetable and who will be responsible for implementation?

16. N/A as the report is for information.

Appendices

17. None

Background papers

18. None