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Council Meeting – Wednesday, 16th September 2009

Late Item – Agenda Item 9 – ‘Recommendations of the General Purposes Committee:
Amendments to the Constitution’

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Report of the Assistant Chief Executive (Corporate Governance)

Council

Date: 16th September 2009

Subject: Recommendations of General Purposes Committee

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 Purpose Of This Report

- 1.1 This report sets out recommendations to Council from General Purposes Committee in relation to proposed amendments to the Council Procedure Rules, Article 6 and Article 15 of the Constitution.

2.0 Background Information

- 2.1 General Purposes Committee is authorised to consider proposals to amend the Constitution and make recommendations about this to full Council. At its meeting held on 8th September 2009, the Committee resolved to recommend that full Council approve the proposed amendments to the Council Procedure Rules, Article 6 and Article 15, as attached at Appendices 1, 2 and 3 respectively.

3.0 Main Issues

Council Procedure Rules

- 3.1 A report was submitted by the Assistant Chief Executive (Corporate Governance), which had been produced at the request of Group Whips, asking Members to consider an amendment to the Council Procedure Rules. The proposed amendment introduces an additional 24 hour period to the process for the management of White Papers, to allow for the correction or withdrawal of motions should the proposer wish to do so following advice from their Group Whip.

- 3.2 It was therefore proposed that the Council Procedure Rules be amended to change the latest time for the submission of White Papers to 10.00am on the day *before* the issue of the Summons. This would allow for:
- Initial ordering and categorisation of all motions received;
 - Circulation to all Group Whips following that process;
 - The potential for the relevant Group Whip to secure the correction or withdrawal of any given motion up to the cut off time of 10.00am on the day of the issue of the Summons; and
 - Any necessary re-ordering and/or re-categorisation of motions.
- 3.3 General Purposes Committee resolved to recommend that full Council approve the proposed amendments to paragraph 12.1 of the Council Procedure Rules, as attached at Appendix 1.

Article 6

- 3.4 A report was submitted by the Chief Democratic Services Officer presenting a draft Vision for Scrutiny for approval.
- 3.5 KPMG, the Council's auditors, undertook a review of the Council's Overview and Scrutiny function. As part of their report, KPMG recommended that an overall vision for the Scrutiny function should be developed and published.
- 3.6 A draft Vision was therefore presented to the Committee, which had been produced in consultation with the Scrutiny Chairs, Executive Board Members and Group Leaders. The Vision uses as its basis the 'four principles of good public scrutiny' as developed by the Centre for Public Scrutiny. It also draws on the values agreed by Members in the 'Memorandum of Understanding between Executive Board and Scrutiny'.
- 3.7 General Purposes Committee resolved to recommend that Council approve the Vision for Scrutiny, and that it be included in Article 6 of the Constitution, as attached at Appendix 2.

Article 15

- 3.8 A report was submitted by the Assistant Chief Executive (Corporate Governance) setting out proposed amendments to Article 15, for the purposes of clarification.
- 3.9 Paragraph 15.2 of Article 15 states that, 'The Monitoring Officer is authorised to make any changes to any Part of the Constitution which are required:
- As a result of legislative change or decisions of the Council or Executive to enable him/her to maintain it up-to-date;
 - Or for the purposes of clarification only.'
- 3.10 In order to clarify the first bullet point relating to decisions of the Council or Executive, it was proposed that the Article is amended to clarify that 'decisions of the Council or Executive' includes those decisions made by Council Committees, Committees of the Executive, and officers acting under delegated authority.

- 3.11 Although this amendment would be for clarification purposes only and strictly within the Monitoring Officer's delegated authority, it was considered more transparent and therefore preferable by the Monitoring Officer that the proposal was agreed by General Purposes Committee and full Council, rather than the Monitoring Officer approving an amendment to her own authority.
- 3.12 General Purposes Committee resolved to recommend that full Council approve the proposed amendments to Article 15, as attached at Appendix 3.

4.0 Implications For Council Policy And Governance

- 4.1 It is in accordance with good governance principles to keep the Constitution under review.

5.0 Legal And Resource Implications

- 5.1 Amendments to the Council Procedure Rules and the Articles must be approved by full Council, after consideration from General Purposes Committee. Although the Monitoring Officer is authorised to make amendments to any part of the Constitution for the purposes of clarification, she has asked that the proposed amendments to Article 15 be approved by General Purposes Committee and full Council for the reasons outlined in paragraph 3.11 of this report.

6.0 Conclusions

- 6.1 Full Council are recommend to approve the proposed amendments to the Council Procedure Rules, Article 6 and Article 15, as attached at Appendices 1, 2 and 3 respectively.

7.0 Recommendations

- 7.1 Council are recommended to resolve to:
- Approve the proposed amendments to the Council Procedure Rules, as attached at Appendix 1;
 - Approve the proposed amendments to Article 6, as attached at Appendix 2; and
 - Approve the proposed amendments to Article 15, as attached at Appendix 3.

Background documents

Reports to General Purposes Committee, 8th September 2009:

- Management of White Paper Motions;
- Vision for Scrutiny; and
- Amendments to Article 15.

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Council Procedure Rules

12.0 MOTIONS ON NOTICE

12.1 Notice

Except for motions which can be moved without notice under Rule 13, written notice of every motion signed by the Member or Members of Council giving notice must be delivered at the office of the Chief Executive prior to 10.00am of the day preceding the day for issue of the Summons. The number of motions admissible for full debate at any given meeting shall be limited to four⁵. Any motions over and above that number shall be referred back to the proposer unless the proposer accepts that the procedure at 3.1 (c) shall be applied. The Proposer shall have the right to correct or withdraw a White Paper Motion up to 10.00 am on the day for the issue of the Summons. The Chief Executive shall enter all notices of motion received in a book which shall be kept open for the inspection of every Member of the Council. All motions of which such notice is given shall be known as White Paper Motions.

Deleted: of the Tuesday of the week before the next meeting of the Council if it is to be held on a Wednesday or before 1.00p.m.

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Note - The Summons must be issued so as to be delivered five clear days before the day of the Meeting of the Council

⁵ Two of these being reserved to the largest opposition group, and one being reserved to the Administration

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ARTICLE 6 – SCRUTINY BOARDS

6.1 ROLE

The Council will appoint the Scrutiny Boards set out in the left hand column of the table below to exercise functions (conferred by section 21 of the Local Government Act 2000 and in accordance with the National Health Service Act 2006) in relation to the matters set out in the right hand column of the table.

Scrutiny Board	Scope ¹
Scrutiny Board (Adult Social Care)	Matters relating to adult services.
Scrutiny Board (Central and Corporate Functions)	Matters relating to central and corporate functions;
Scrutiny Board (Children's Services)	Matters relating to children's services.
Scrutiny Board (City Development)	Matters relating to city development
Scrutiny Board (Environment and Neighbourhoods)	Matters relating to environment and neighbourhoods The authority's crime and disorder committee ²
Scrutiny Board (Health)	Matters relating to the planning, provision and operation of health services
Scrutiny Board (City and Regional Partnerships)	Matters relating to the authority's key and strategic partnerships.

6.2 GENERAL FUNCTIONS

In exercising, or deciding to exercise any of their functions, Scrutiny Boards must have regard to any guidance issued by the Secretary of State³.

Within their terms of reference, all Scrutiny Boards will

- review or scrutinise the exercise of any function of the Council or Executive;

¹ See further Terms of Reference set out in Part 3 of the Constitution

² Section 19 Police and Justice Act 2006

³ Section 21 Local Government Act 2000

Article 6 - Scrutiny Boards

- make reports or recommendations to Council or the Executive in connection with the exercise of any functions of the Council or the Executive; and
- make reports or recommendations to the Council or the Executive on any matter affecting the area or its inhabitants;
- exercise the right to Call-In decisions made but not yet implemented by the Executive, for reconsideration⁴

The Scrutiny Board (Health) will also:

- review or scrutinise any matter relating to the planning, provision and operation of health services in the authority's area;
- make reports and recommendations to local NHS bodies⁵ and to the Council or the Executive on any matter reviewed or scrutinised by it; and
- be consulted by local NHS body⁶.

The Scrutiny Board (Environment and Neighbourhoods) is the Council's crime and disorder committee. In this capacity it will:

- review or scrutinise the exercise of crime and disorder functions⁷ by responsible authorities⁸;
- review or scrutinise any local crime and disorder matter in relation to a Member⁹; and
- make reports or recommendations to the Council or the Executive about the exercise of crime and disorder functions¹⁰ or any local crime and disorder matter in relation to a Member¹¹.

⁴ The Scrutiny Board (Health) cannot exercise the right to Call-in decisions, nor can the Scrutiny Board (Environment and Neighbourhoods) in its capacity as crime and disorder committee.

⁵ NHS bodies in Leeds include the Primary Care Trust, the Leeds Teaching Hospitals NHS Trust, NHS Yorkshire and the Humber and the Leeds Mental Health Teaching NHS Trust

⁶ in accordance with the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 as amended

⁷ As defined by Section 6 Crime and Disorder Act 1998 (formulating and implementing crime and disorder strategies).

⁸ These are the authorities responsible for crime and disorder strategies (Section 5 of the Crime and Disorder Act 1998)

⁹ This is any matter concerning-

(a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) or

(b) the misuse of drugs alcohol and other substances in that area which affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area.

¹⁰ See footnote 8

¹¹ See footnote 10

6.3 SPECIFIC ROLES

Vision for Scrutiny

The Council has adopted a Vision for Scrutiny, which is attached at Annex 1.

Policy development and review

All Scrutiny Boards may:

- assist the Council and the Executive in the development of the Budget and Policy Framework by in-depth analysis of policy issues;
- conduct research, community and other consultation in the analysis of policy issues and possible options;
- consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- question Members of the Executive and Directors about their views on issues and proposals affecting the area; and
- liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

Scrutiny

All Scrutiny Boards may:

- review and scrutinise the decisions made by and performance of the Executive and/or committees and Directors both in relation to individual decisions and over time;
- review and scrutinise the performance of the Council and the Executive in relation to policy objectives, performance targets and/or particular service areas;
- question Members of the Executive, other Members¹² and/or committees and Directors about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- make recommendations to the Executive and/or appropriate committees and/or Council arising from the outcome of the scrutiny process;

¹² in relation to a matter where the Member has exercised functions under Section 236 Local Government and Public Involvement in Health Act 2007(exercise of functions by local Members)

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Article 6 - Scrutiny Boards

- review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Board and local people about their activities and performance; and
- question and gather evidence.

The Scrutiny Board (Health) may also review or scrutinise:

- arrangements made by local NHS bodies to secure hospital and community health services to the inhabitants of the authority's area;
- the provision of such services to those inhabitants;
- the provision of family health services, personal medical services, personal dental services, pharmacy and NHS ophthalmic services;
- the public health, health protection and specialist health promotion arrangements in the area;
- the planning of health services by NHS bodies, including plans made in co-operation with local authorities setting out a strategy for improving both the health of the local population and the provision of health care to that population; and
- the arrangements made by NHS bodies for consulting and involving patients and the public;

and make recommendations to the local NHS bodies arising from the outcome of the scrutiny process.

Annual Report

The Proper Officer¹³ will produce an annual report for Council about the work of the Scrutiny function.

6.4 FINANCE

The Proper Officer¹⁴ shall exercise overall responsibility for the finances made available to the Scrutiny Boards.

6.5 OFFICERS

The Proper Officer¹⁵ shall exercise overall responsibility for the work programme of the officers employed to support the work of the Scrutiny Boards.

¹³ This is the Head of Scrutiny and Member Development. This will be done in consultation with the Scrutiny Board Chairs

¹⁴ This is the Head of Scrutiny and Member Development.

¹⁵ This is the Head of Scrutiny and Member Development

6.6 PROCEEDINGS

Scrutiny Boards will conduct their proceedings in accordance with the Scrutiny Board Procedure Rules set out in Part 4 of this Constitution.

6.7 CO-OPTED MEMBERS

Education Representatives

The following shall be appointed as voting representatives on each relevant Scrutiny Board dealing with educational matters¹⁶:

(a) For a term of office which does not go beyond the next Annual Meeting of the Council:

- one Church of England diocese representative
- one Roman Catholic diocese representative

(b) For a four year term of office:

- three parent governor representatives

If the relevant Scrutiny Board deals with other matters, these representatives shall not vote on those other matters. They may stay in the meeting and speak.

Crime and Disorder Committee

Subject to the following provisions, in its capacity as crime and disorder committee, the Scrutiny Board (Environment and Neighbourhoods) may co-opt additional members to serve on the Board¹⁷.

The Scrutiny Board can only in this capacity co-opt as a member a person who:

- (a) is an employee, officer or member of a responsible authority¹⁸ or of a co-operating person or body¹⁹; and
- (b) is not an Executive Member.

Unless the Scrutiny Board decides otherwise, any such co-opted member shall not be entitled to vote.

The Scrutiny Board may limit a co-opted person's membership to the exercise of the Board's powers in relation to a particular matter or type of matter.

The Scrutiny Board may withdraw the co-opted person's membership at any time.

¹⁶ A Scrutiny Board is a relevant Scrutiny Board where the Board's functions relate wholly or in part to any education functions which are the responsibility of the authority's executive

¹⁷ The Crime and Disorder (Overview and Scrutiny) Regulations 2009

¹⁸ See footnote 9

¹⁹ People or bodies with whom the responsible authorities have a duty to co-operate (Section 19(2)(b) Police and Justice Act 2006)

Article 6 - Scrutiny Boards

Additional co-opted members

The following may be appointed to each Scrutiny Board²⁰:

- (a) For a term of office which does not go beyond the next Annual Meeting of the Council:
 - up to five **non-voting** co-opted members
- (b) For a term of office which relates to a particular Scrutiny Inquiry:
 - up to two **non-voting** co-opted members

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²⁰ Co-option would normally only be appropriate where the co-opted member has some specialist skill or knowledge, which would be of assistance to the Scrutiny Board.

ANNEX 1

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Vision for Scrutiny at Leeds

"To promote democratic engagement through the provision of an influential scrutiny function which is held in high regard by its many stakeholders and which achieves measurable service improvements which add value for the people of Leeds through a member led process of examination and review"

To achieve this Scrutiny will follow the nationally agreed 'Four Principles of Good Scrutiny':

1. Provide 'critical friend' challenge to decision makers, through holding them to account for decisions made, engaging in policy review and policy development;
2. Promote Scrutiny as a means by which the voice and concerns of the public can be heard;
3. Ensure Scrutiny is carried out by 'independent minded' Board members;
4. Improve public services by ensuring reviews of policy and service performance are focused.

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To succeed Council recognises that the following conditions need to be present;

- Parity of esteem between the Executive and Scrutiny
- Co-operation with statutory partners
- Member leadership and engagement
- Clarity and focus of purpose
- Genuine non-partisan working
- Evidence based conclusions and recommendations
- Effective dedicated officer support
- Supportive Directors and senior officer culture

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ARTICLE 15 - REVIEW AND REVISION OF THE CONSTITUTION**15.1 DUTY TO MONITOR AND REVIEW THE CONSTITUTION**

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

- **Protocol for monitoring and review of constitution**

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1.

In undertaking this task the Monitoring Officer may:

- (a) observe meetings of different parts of the Member and officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and/or
- (d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.2 CHANGES TO THE CONSTITUTION

- **Approval**

Changes to Parts 1 and 2 of the Constitution will only be approved by the full Council after consideration of the proposal by the General Purposes Committee and following advice from the Monitoring Officer, save that authority to make certain changes is delegated to the Monitoring Officer as detailed below. Changes to the Constitution may be made by simple majority.

Changes to Parts 3 to 7 of the Constitution will be approved by the body or person to whom such authority has been delegated as indicated in the relevant Part of the Constitution. Where the approval of full Council is required for such changes in Parts 3 to 5 of the Constitution, then they will only be approved by full Council after consideration of the proposal by the General Purposes Committee and following advice from the Monitoring Officer.

The Monitoring Officer is authorised to make any changes to any Part of the Constitution which are required

Article 15 – Review and Revision of the Constitution

- as a result of legislative change or decisions of the Council¹ or Executive² to enable him/her to maintain it up to date;
- or for the purposes of clarification only.

All changes made by officers under delegated authority will be recorded as delegated decisions.

¹ Including Council Committees and Officers acting under delegated authority.

² Including Committees of the Executive and Officers acting under delegated authority.