



**Report of City Solicitor**

**Report to General Purposes Committee**

**Date: 15<sup>th</sup> May 2019**

**Subject: Annual Review of Constitution**

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

**Summary of main issues**

1. The City Solicitor, in their role as Monitoring Officer, has undertaken a review of the Constitution.
2. This report sets out recommendations proposed to ensure that the Constitution remains up to date and fit for purpose.
3. Amendments are proposed in relation to the following documents
  - Article 6 (Appendix C)
  - Officer Delegation Scheme (Council (Non-executive) Functions):-
    - City Solicitor (Appendix Ai)
    - Director of Communities and Environment (Appendix Aii)
  - Scrutiny Board Procedure Rules (Appendix B)
  - Appointments to Outside Bodies Procedure Rules (Appendix G)
  - Procedure For Considering Complaints Alleging A Failure To Comply With A Members' Code Of Conduct Within The Area Of Leeds Metropolitan District Council (Appendix E)
  - Members Code of Conduct (Appendix D)
  - Protocol for the Co-ordination of External Inspection Reports (Appendix F)

## **Recommendations**

4. General Purposes Committee are requested to consider the proposed amendments and to make a recommendation to the annual meeting of Council on 22nd May that the proposals be approved.

## **1. Purpose of this report**

- 1.1 This report sets out amendments to the Constitution which are proposed to ensure that the Constitution remains up to date and fit for purpose.

## **2. Background information**

- 2.1 Article 1 provides that the purpose of the constitution is to:-

- enable the Council to provide visible, accountable and effective leadership to the community in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of local authority decision-making;
- help Councillors represent their constituents more effectively; enable decisions to be taken efficiently and effectively; create a powerful and effective means of holding decision-makers to public account;
- ensure that no-one will review or scrutinise a decision in which they were directly involved;
- ensure that those responsible for decision making are clearly identifiable to local people and they explain the reasons for decisions; and
- provide a means of improving the delivery of services to the community.

- 2.2 Article 15 requires that the Monitoring Officer monitors and reviews the operation of the constitution to ensure that the aims and principles of the constitution are given full effect. In particular the Monitoring Officer is required to make recommendations as to how the constitution may be amended in order better to achieve the purposes set out in Article 1.

## **3. Main issues**

### Officer Delegation Scheme (Council (Non-executive) Functions)

- 3.1 The City Solicitor's delegations from Council include authority to appoint Members to council committees in the period between the election and the annual council meeting in order that such meetings as are necessary in that period can proceed with adequate and appropriate membership.
- 3.2 For a number of years the Order Paper for the Annual Council Meeting has included a similar provision to enable the City Solicitor to appoint Members to council committees to give effect to Whips' nominations or where a group whip wishes to replace a committee Member with another Member of the same group. It is proposed that for consistency and transparency this provision is now included within the City Solicitor's delegation scheme.
- 3.3 The amended scheme is attached as Appendix Ai to this report.
- 3.4 The proposals reflect practice and procedure which has been agreed by Whips in advance of the Annual Council Meeting for a number of years. The City Solicitor has been consulted and is content with the proposals set out in this report.
- 3.5 Amendments are proposed, as set out at Appendix Aii attached, to the Director of Communities and Environment delegations to reflect changes in legislation. The proposals have been shared with the Director who is content with the amendments.

### Article 6 and Scrutiny Board Procedure Rules

- 3.6 It has been sometime since the Scrutiny Board Procedure Rules (the Rules) have been reviewed to ensure that they remain up-to-date and fit for purpose. A review of the Rules has been undertaken with the following aims:-
- to ensure the rules reflect the current legislative framework for Scrutiny;
  - to remove any ambiguities; and
  - to clarify links and relationships with other documents within the Constitution.
- 3.7 It was hoped that the rules could also be reviewed with the benefit of up to date scrutiny guidance from the Ministry of Housing, Communities and Local Government. Unfortunately the anticipated guidance has not been released however the Monitoring Officer has been advised that, when issued, the guidance is unlikely to introduce anything new; rather the intention is to reflect and consolidate best practice guidance into one document.
- 3.8 The amended Rules are attached as Appendix B to this report. The key issues that have been identified and remedied in the revised rules are:
- Removal of ambiguities by introducing a more intuitive presentation;
  - Removal of duplication between Article 6 and the Rules to ensure consistency;
  - Improved signposting to other relevant provisions in the Council's constitution (e.g. Council Procedure Rules, Access to Information Procedure Rules.)
  - Clarification of referral routes for requests for Scrutiny in line with legislative provisions;
  - Provision of greater flexibility for calling witnesses (by removing timescales for giving 7 days-notice);
  - Enhancement of references to the Vision for Scrutiny.
- 3.9 Amendments are proposed to Article 6, attached as Appendix C to this report, to carry through the intention to ensure consistency between the Rules and the Article.
- 3.10 The proposed amendments have been shared with Scrutiny Board Chairs.

### Outside Bodies Procedure Rules

- 3.11 The Chair of the Member Management Committee has proposed a change to the Outside Body Procedure Rules for consideration by General Purposes Committee.
- 3.12 The proposal is to amend the Procedure Rules to make it clear that where a political group has been allocated a position to fill then that position should be filled by an Elected Member from that political group, if the group proposes to fill that position with someone other than a Member from that political group then such appointments must be made by either the Member Management Committee, or if delegated, by the Community Committee with that authority.
- 3.13 The amended Rules are attached as Appendix G to this report.

### Framework for Standards

- 3.14 The Members Code of Conduct together with the Procedure For Considering Complaints Alleging A Failure To Comply With A Members' Code Of Conduct Within

The Area Of Leeds Metropolitan District Council (the Complaints Procedure) form the framework for Standards for Members Leeds City Council.

- 3.15 At its meeting on Friday 8<sup>th</sup> March 2019, the Standards and Conduct Committee considered the report of the Head of Governance and Scrutiny Support providing commentary and the recent Committee on Standards in Public Life (CSPL) report into Ethical Standards in Local Government. In particular the Committee considered the Best Practice recommendations made by CSPL against current practice and procedure at Leeds City Council.
- 3.16 As a result the committee resolved to recommend to General Purposes Committee that the Members' Code of Conduct should be amended to reflect:-
- Best Practice 1:- "Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition"; and
- Best Practice 2:- "Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors."
- 3.17 Amendments are therefore proposed to the Code of Conduct, attached as Appendix D to this report.
- 3.18 In addition the committee resolved to recommend to General Purposes Committee that the Complaints Procedure should be amended to reflect:-
- Best Practice 8:- "An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial."; and
- Best Practice 11:- "Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances."
- 3.19 Amendments are therefore proposed to the Complaints Procedure, attached as Appendix E to this report.
- 3.20 Taken together the amendments will ensure that the framework for standards at Leeds City Council meets the Best Practice recommendations of CSPL against which local authorities will be benchmarked in 2020.
- 3.21 The Chair of Standards and Conduct Committee has been consulted in relation to the proposed amendments and has confirmed that they cover the Best Practice requirements well and that she is very happy with them.

#### Protocol for Co-ordination of External Inspection Reports

- 3.22 The City Solicitor has reviewed the existing Protocol for the Co-ordination of External Audit and Inspection Reports and proposes that the document be replaced with the draft Protocol attached as Appendix F to this report.
- 3.23 The redrafted protocol is designed to ensure that relevant Directors are able to oversee the process for formal inspections but that the resulting report is shared appropriately on a cross party basis. The revised protocol also recognises that any such report should be shared with the most appropriate body, whether that be the

Executive Board or one of the city's partnership boards, as well as being open to consideration by Scrutiny or Corporate Governance and Audit Committee.

- 3.24 The proposed draft no longer includes external audits as the way the Council reports and responds to these is bound by legislation.
- 3.25 The draft protocol has been shared with the Deputy Leader and Executive Member for Resources and Sustainability and with the chair of the Corporate Governance and Audit Committee. Both are content with the draft.
- 3.26 The draft protocol has also been shared with the Leaders of each of the opposition groups.
- 3.27 A suggestion has been made that at paragraph 3 the protocol should require that opposition leaders should be made aware of pending inspections. Similarly it is suggested that at paragraph 7 opposition leaders may, where appropriate, receive the draft inspection report. The City Solicitor is guided by the 'Need to Know' provisions set out in the Access to Information Procedure Rules contained in the Council's constitution. These provide that "draft reports will not usually be disclosed". Whilst it is acknowledged that this will be a matter for the relevant Director in relation to any given inspection the City Solicitor does not therefore consider that the draft rules should be amended as suggested.
- 3.28 A further suggestion was been received that paragraph 10, which deals with circulation of the final report, should include each group Leader who does not have a seat on Executive Board. The City Solicitor has incorporated this proposal in the attached draft.

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 Consultation arrangements in respect of each document are set out in the main body of this report.

### **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 Continuous monitoring and updating of the Constitution is in line with the Council's value of being open, honest and trusted.

### **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 Proposed amendments ensure that the Constitution remains in line with current legislative requirements.

## **4.6 Risk management**

4.6.1 There are no implications for this report.

## **5. Conclusions**

5.1 The amendments proposed in relation to the following documents will ensure that the Constitution remains up to date and fit for purpose.

- Article 6 (Appendix C)
- Officer Delegation Scheme (Council (Non-executive) Functions):-
  - City Solicitor (Appendix Ai)
  - Director of Communities and Environment (Appendix Aii)
- Scrutiny Board Procedure Rules (Appendix B)
- Appointments to Outside Bodies Procedure Rules (Appendix G)
- Procedure For Considering Complaints Alleging A Failure To Comply With A Members' Code Of Conduct Within The Area Of Leeds Metropolitan District Council (Appendix E)
- Members Code of Conduct (Appendix D)
- Protocol for Co-ordination of External Inspection Reports (Appendix F)

## **6. Recommendations**

6.1 General Purposes Committee are requested to consider the proposed amendments and to make a recommendation to the annual meeting of Council on 22<sup>nd</sup> May that the proposals be approved.

## **7. Background documents<sup>1</sup>**

7.1 None

---

<sup>1</sup> 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.