

# Review of Protocol for the Roles of Members and Officers in Decision Making

Date: 27<sup>th</sup> July 2022

Report of: City Solicitor

Report to: Executive Board

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

## Brief summary

This report recommends amendments to the Protocol for the Roles of Members and Officers in Decision Making (the Protocol) in order to ensure that it remains up to date and fit for purpose.

The Protocol provides clarity as the roles and responsibilities of Members and Officers engaged in decision making, ensuring that decisions are taken in accordance with the ethical framework and give effect to the democratic mandate.

## Recommendations

Executive Board is requested to

- a) Approve the amended Protocol for the Roles of Members and Officers in Decision Making (attached at Appendix A).
- b) Delegate future amendments of the Protocol to the City Solicitor in consultation with the Leader of Council, opposition Members of Executive Board and the Chief Officer Financial Services; and note that the Monitoring Officer will amend Article 15 of the Constitution to reflect this.

## **What is this report about?**

- 1 This report sets out a review of the Protocol, undertaken as an action arising from the Annual Governance Statement approved in 2021, which has identified opportunities for improvement.

## **What impact will this proposal have?**

- 2 The Protocol is a constitutional document and was last reviewed and amended in May 2013.

### Proposed amendments

- 3 The proposed draft is attached at Appendix A to this report.
- 4 The draft includes further emphasis on the Principles of Decision Making as set out in Article 13 of the Constitution, reflecting the importance of ethical conduct, transparency and accountability in decision making. The proposed draft provides explicitly that decisions must be taken in accordance with the principles (para 3.2), and that officers must consider whether the decision complies with the principles before discharging a function (para 5.3).
- 5 Similarly the draft emphasises the need to comply with the requirements around the registration and declaration of interests and the importance of ensuring that there is no actual or perceived conflict of interests. The draft Protocol requires that both members and officers observe their respective codes of conduct and ensure the registration of interests and gifts and hospitality in accordance with arrangements (para 3.3); and that they will ensure that there is no actual or perceived conflict of interests (para 3.4). The draft provides that an Executive member, Deputy Executive member or Support Member will not act on any matter in exercise of their executive function where they have an interest in that matter under the Code of Conduct (para 4.11) and similarly that an officer will not discharge a function where they have an interest in respect of the matter (para 5.4).
- 6 The proposed draft updates and simplifies the provisions in relation to the roles of deputy and support executive members to reflect current practice. The draft remains clear that the executive member is accountable for all functions within their portfolio (para 4.9), and sets out the ways in which a deputy or support member can assist the executive member in discharging their role (para 4.10).
- 7 The proposed draft refers to the Access to Information Procedure Rules (para 4.13) rather than including provision within the protocol itself. This avoids duplication and prevents risk of the documents coming into conflict as a result of future amendments.

### Delegation of authority to amend

- 8 Article 15 of the constitution requires that the amended protocol is approved by Executive Board, however it is proposed that authority to undertake further revisions of the Protocol is delegated to the City Solicitor in consultation with the Leader of Council, opposition members of Executive Board and the Chief Officer Financial Services.
- 9 Delegation of authority to amend the Protocol in this way will mean that minor amendments required to keep the protocol up to date and fit for purpose can be taken by the City Solicitor. However, as all amendments to the protocol will be subject to cross party consultation, Executive Members will have the opportunity to require that amendments to the Protocol are referred to Executive Board for approval should this be considered necessary.

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

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 10 The Protocol addresses the way in which decisions are taken, and ensures democratic oversight in relation to all three strategic pillars

## What consultation and engagement has taken place?

Wards affected: None

Have ward members been consulted?  Yes  No

11 The Monitoring Officer and Chief Finance Officer have been consulted and support the proposed amendments.

12 The Leader of Council has been consulted and supports the proposed amendments.

## What are the resource implications?

13 There are no implications to this report.

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

14 There are no implications for this report.

## What are the legal implications?

15 The revised Protocol reflects relevant statutory and common law requirements for decision making.

## Options, timescales and measuring success

### What other options were considered?

16 To leave the Protocol as is would mean that it does not reflect current practice and procedure.

### How will success be measured?

17 The Protocol will be included within the Constitution and regularly reviewed.

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

18 The Protocol will take effect immediately upon approval.

19 The City Solicitor will be responsible for undertaking regular reviews of the Protocol.

## Appendices

- Appendix A - Protocol for the Roles of Members and Officers in Decision Making

## Background papers

- None