



Report of the City Solicitor

General Purposes Committee

Date: 17 May 2011

Subject: Annual review of the constitution

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 amendments to the constitution, identified by the annual review of the constitution by the Monitoring Officer.
2. Amendments proposed include adding the local flood risk management strategy to the budget and policy framework set out in Article 4.
3. A minor extension is also proposed to the terms of reference of the General Purposes Committee so that it may exercise any council function delegated to an officer, which does not fall within the terms of reference of any other council committee.
4. Amendments are proposed to the officer delegation scheme (council (non-executive) functions) to remove all delegations to the Chief Recreation Officer. It is also proposed that, instead, one additional function (the making of a special extinguishment order under Section 118B of the Highways Act 1980) is concurrently delegated to the Chief Officer Highways and Transportation. A minor amendment is proposed to widen the exception to the delegation to the Chief Planning Officer, to ensure that applications received in a personal capacity from the City Solicitor must be referred to Plans Panel for determination.
5. An amendment is proposed to CPR 11.2, to provide for questions to be taken in the order in which they are received. This proposal would not affect any Whips' agreement about the order in which questions from each group are heard. An amendment to CPR 13.1 is also proposed by the Administration, to require amendments to the Budget Motion to be received by the Chief Executive no later than 10.00am on the third working day after the issue of the Summons. This would give more time to consider them before the meeting.

6. An amendment is proposed to Article 10.6 to provide that the Chairs of Area Committees are appointed at the Annual Council Meeting, an amendment Area Committee Procedures contained at Section 5 to reflect this, and an amendment Area Committee Procedure Rule 6.7, to require the business of Area Committees to include consideration of Area Chairs' meetings minutes.
7. General Purposes Committee are asked to recommend full Council to:
 - (a) approve the revised Article 4 as set out in appendix 1 to this report;
 - (b) amend the terms of reference of the General Purposes Committee as set out in appendix 2 to this report;
 - (c) withdraw delegations to the Chief Recreation Officer;
 - (d) concurrently delegate the additional function of making a special extinguishment order under Section 118B of the Highways Act 1980 to the Chief Highways and Transportation Officer and the Director of City Development;
 - (e) amend the exception (h) to the delegation to the Chief Planning Officer, to read "the determination of applications submitted in a personal capacity by or on behalf of Members, Directors or any other officer who carries out development management functions";
 - (f) consider the amendments to the revised Council Procedure Rules 11.2 and 13.1 set out in appendix 3 to this report; and
 - (g) approve the amendment to Article 10.6 set out in appendix 4 to this report.
 - (h) approve the consequential amendments to Area Committee Procedure Rules at Section 5 and the amendment to Rule 6.7, both set out in appendix 5 to this report.

1.0 Purpose Of This Report

- 1.1 To ask the General Purposes Committee to recommend amendments to the constitution to full Council, following the annual review of 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.
- 2.2 The constitution is updated throughout the year. However, the Head of Governance Services also reviews the constitution before the annual meeting, on behalf of the Monitoring Officer. The review includes consultation with officers through the Corporate Leadership Team. This report proposes a number of amendments to the constitution, following the annual review.

Flood and Water Management Act 2010

- 2.3 Amendments proposed include amendments following the Flood and Water Management Act 2010. The Council is both a lead local flood authority, and a risk management authority under the 2010 Act. As lead local flood authority, the Council has a duty to develop, maintain apply and monitor a strategy for local flood risk management in its area¹.
- 2.4 The strategy must set out the Council's objectives for managing flood risk, as well as proposed measures to deliver the objectives, and timescales for their implementation. It must also set out how those measures are to be paid for, as well as their costs and benefits, how and when the strategy will be reviewed, and how the strategy contributes to the achievement of wider environmental objectives.
- 2.5 The 2010 Act also amends the Local Government Act 2000 to require the Council to make arrangements to review and scrutinise the functions exercised by flood risk management authorities. Item 8 on this agenda deals with amendments to the Council's scrutiny arrangements, to implement this requirement.

3.0 Main Issues

Article 4

- 3.1 Article 4 sets out the Council's budget and policy framework. Documents listed in the framework are required to be approved by full Council (as opposed to the Executive), in accordance with the Budget and Policy Procedure Rules. Full Council at its meeting on 6 April approved amendments to the budget and policy framework, to be of effect from the new municipal year.
- 3.2 It is now proposed that the local flood risk management strategy is added to the framework, due to its significance in terms of both budget and policy issues. Appendix 1 to this report sets out the proposed revised Article 4, incorporating the amendments already considered by full Council on 6 April.

Terms of Reference -General Purposes Committee

- 3.3 Existing terms of reference for the General Purposes Committee authorise it to "consider and determine Council (non-executive) functions delegated to a Director where the Director has decided not to exercise the delegated authority and has referred to the matter to the Committee". The authority relates to Council functions which do not come within the terms of reference of any other Council committee, such as a Plans Panel.
- 3.4 This authority extends only to discharging delegated Council functions which have been referred to it. The Committee does not therefore have authority to take such decisions in the event of an unforeseen absence by a Director. If a Director has not sub-delegated their authority to another officer, in that Director's absence, currently any urgent decisions would have to be considered at an extraordinary Council meeting. This might present operational difficulties, not least in terms of achieving a quorum.

¹ Section 9 Flood and Water Management Act 2010

- 3.5 To minimise the risk of this, it is therefore proposed to extend the terms of reference of the General Purposes Committee, to authorise it to exercise any Council function delegated to a Director which is not within the terms of reference of any other council committee. The proposed amendment is set out in appendix 2 to this report.

Officer Delegation Scheme (Council (non-executive) functions)

- 3.6 The Chief Recreation Officer is expected to leave the employment of the Council on 27th May 2011. There are no plans to fill the post of the Chief Recreation Officer for the foreseeable future, and therefore it is proposed that the concurrent delegations to this post are withdrawn. The functions will remain delegated to the Director of City Development, however.
- 3.7 The Chief Recreation Officer currently has authority to make a special extinguishment order under Section 118B of the Highways Act 1980. However, this is a function which could appropriately be carried out by the Chief Officer Highways and Transportation. It is therefore proposed that this function is delegated to the Chief Officer Highways and Transportation. This will be concurrent to the delegation to the Director of City Development.
- 3.8 A minor amendment is also proposed to exception (h) to the Chief Planning Officer's delegation. This currently provides as an exception "the determination of applications submitted in a personal capacity by or on behalf of Members, the Chief Executive, an Assistant Chief Executive, Director, Chief Officer or any other officer who carries out development management functions". However, this exception does not extend to applications from the City Solicitor, who is neither a Director, nor a Chief Officer. Article 12 provides that any reference to "Director" in the constitution is deemed to include reference to all officers listed in the Article, except where the context requires otherwise. It is therefore proposed to amend the exception to refer to "Directors", since the City Solicitor post is listed in Article 12, together with the other officers currently identified in the exception.

Council Procedure Rules

- 3.9 A minor amendment is proposed to CPR 11.2, to provide that questions will be taken in the order in which notice of the question is received by the Chief Executive. This proposal does not affect any Whips' agreements about the order in which questions from each group are heard.
- 3.10 The Administration has also proposed an amendment to CPR 13.1, which currently provides that amendments to a motion must be received not less than 24 hours before a meeting. The proposal is to require amendments to the Budget Motion to be received by the Chief Executive no later than 10.00am on the third working day after the issue of the Summons. This amendment would allow the Leader of Council and Portfolio holders more time before full Council in which to discuss such amendments with relevant Directors, and to more fully consider the implications for service provision and the overall budget.
- 3.11 The proposed amendments are shown in appendix 3 to this report. A further review of the Rules may be needed in the event that a "State of the City" Council-wide debate is organised to take place as a meeting of Council.

Area Committees

- 3.12 Area Chairs have in the past been appointed by the Area Committees at the first meeting of the committees in the new Municipal Year. This has often led to some uncertainty as the chair of the Area Committee as some of the committees do not meet until mid July.
- 3.13 With an increase in delegations to the Area Committees (Executive Board has delegated additional Streetscene functions to Area Committees for the forthcoming Municipal Year) and an emphasis on locality working being led by the new Area Leaders, securing early clarity as to the Chairs of Area Committees for the forthcoming Municipal Year is seen by the Administration as essential.
- 3.14 The quickest way to achieve this clarity is for the Chairs of Area Committees to be appointed (as with other committee chairs) at the Annual Council meeting. It is therefore proposed that amendments be made to Article 10.6 to provide that Chairs of Area Committees are appointed by full Council. Appendix 4 to this report sets out this proposed revision.
- 3.15 Consequential amendments are required to Section 5 of the Area Committee Procedure Rules. These are set out in Appendix 5. Also set out in Appendix 5 are amendments to the Area Committee Procedure Rules to formalise relations between Area Committees and the Executive Member with responsibility for Area Management. It is proposed to amend Rule 6.7 of the Area Committee Procedure Rules (which sets out business to be considered by Area Committees), to require minutes from the Area Chairs' meetings to be formally considered.

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, to clarify responsibilities, and ensure that it reflects current practices.

7.0 Recommendations

- 7.1 General Purposes Committee are asked to recommend full Council to:
- (a) approve the revised Article 4 as set out in appendix 1 to this report;
 - (b) amend the terms of reference of the General Purposes Committee as set out in appendix 2 to this report;
 - (c) withdraw delegations to the Chief Recreation Officer;

- (d) concurrently delegate the additional function of making a special extinguishment order under Section 118B of the Highways Act 1980 to the Chief Highways and Transportation Officer and the Director of City Development;
- (e) amend the exception (h) to the delegation to the Chief Planning Officer, to read “the determination of applications submitted in a personal capacity by or on behalf of Members, Directors or any other officer who carries out development management functions”;
- (f) consider the amendments to the Council Procedure Rules 11.2 and 13.1 set out in appendix 3; and
- (g) approve the amendment to Article 10.6 set out in appendix 4 to this report.
- (h) approve the consequential amendments to Area Committee Procedure Rules at Section 5 and the amendment to Rule 6.7, both set out in appendix 5 to this report.

Background Papers

Leeds City Council constitution