

Report of the City Solicitor

Report to full Council

Date: 26th May 2011

Subject: Recommendations from General Purposes Committee

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Does the report contain information which has been identified as confidential or exempt?

Yes (if exempt, please see the public interest test in section 4)
Relevant section of the report:
In accordance with Access to Information Procedure Rule:

No, this report does not contain information identified as confidential or exempt.

Is the decision eligible for call-in? **Yes** **No – exempt** **Not applicable**

Summary of main issues and corporate governance considerations

1. At its meeting on 17th May 2010, General Purposes Committee considered reports from the City Solicitor, relating to the annual review of the constitution, and from the Head of Scrutiny and Member Development relating to overview and scrutiny arrangements.
2. After consideration of these reports, the Committee made recommendations to approve the proposals set out in those reports, subject to further amendments, in respect of the proposed scrutiny arrangements, and to the election of Scrutiny Chairs.

Recommendations

3. Further to Committee's resolution, full Council are now recommended to:
 - (a) approve the revised Article 4 as set out in appendix 1 to this report, (incorporating the local flood risk management strategy);
 - (b) approve the revised Article 6 as set out in appendix 2 to this report (reflecting revised scrutiny arrangements, with 5 themed Scrutiny boards, and an additional Scrutiny Board (Resources and Council Services));
 - (c) appoint Scrutiny Boards with the terms of reference set out in the relevant appendices:

- Scrutiny Board (Children and Families) (appendix 3);
- Scrutiny Board (Safer and Stronger Communities) (appendix 4);
- Scrutiny Board (Sustainable Economy and Culture) (appendix 5);
- Scrutiny Board (Regeneration) (appendix 6);
- Scrutiny Board (Health and Well-being and Adult Social Care) (appendix 7);
- Scrutiny Board (Resources and Council Services) (appendix 8).

- (d) amend the terms of reference of the General Purposes Committee as set out in appendix 9 to this report (so it may discharge Council functions delegated to a Director, which do not fall within the terms of reference of any other committee);
- (e) withdraw delegations to the Chief Recreation Officer, as the post will become vacant from 27 May 2011;
- (f) concurrently delegate the function of making a special extinguishment order under Section 118B of the Highways Act 1980 to the Chief Highways and Transportation Officer, in addition to the Director of City Development;
- (g) amend exception (h) to the delegation to the Chief Planning Officer, to “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” (to ensure that applications submitted by the City Solicitor will be referred to Plans Panel);
- (h) approve amendments to the Council Procedure Rule 11.2 (to provide for questions to be taken in the order in which they are received) and Rule 13.1 (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) as set out in appendix 10;
- (i) approve the revised Scrutiny Board Procedure Rules set out in appendix 11 (principally to amend and clarify provisions relating to Call In); and
- (j) approve an amendment to Rule 5 of the Area Committee Procedure Rules relating to the appointment process for Area Committee Chairs and to Area Committee Procedure Rule 6.7 (providing for minutes of the Area Chairs’ Forum to be considered by Area Committees) both set out in appendix 12 to this report.

1 Purpose of this report

- 1.1 This report presents recommendations to Council from the General Purposes Committee, to amend the constitution.

2 Background information

- 2.1 General Purposes Committee is authorised to consider proposals to amend the constitution and make recommendations to full Council. At its meeting on 17 May 2011, the Committee considered two items proposing amendments to the constitution, relating to:
 - the annual review of the constitution; and
 - overview and scrutiny.
- 2.2 This report sets out the recommendations from General Purposes Committee following consideration of these items.

3 Main issues

Article 4

- 3.1 Article 4 sets out the Council's budget and policy framework; it lists documents which must be approved by full Council, in accordance with the Budget and Policy Procedure Rules.
- 3.2 As lead local flood authority, the Council has a duty under the Flood and Water Management Act 2010 to develop, maintain, apply and monitor a local flood risk management strategy. 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.
- 3.3 General Purposes Committee recommend 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 recommended revised Article 4 (incorporating amendments considered by full Council on 6 April 2011).

Article 6

- 3.4 General Purposes Committee recommend amendments to the current overview and scrutiny function to enable scrutiny to be more strategic and outward looking in its operation, and focus on the Council's City Priorities. The Committee recommend five themed Scrutiny Boards be appointed (to mirror the Partnership Boards), together with a Scrutiny Board (Resources and Council Services). Further detail relating to the terms of reference for these Scrutiny Boards is provided below.
- 3.5 The Committee recommend that Article 6 is amended to reflect the revised arrangements. The Committee also recommend a new provision that Group spokespersons shall not be appointed to Chair a Scrutiny Board which corresponds to the same portfolio. The provision is intended to demonstrate and re-enforce the importance of a non-political

group approach to scrutiny, and will not apply to those groups whose membership is less than 10% of the Membership of the Council.

3.6 Appendix 2 to this report sets out the changes recommended to Article 6.

Terms of Reference – Scrutiny Boards

3.7 As referred to above, General Purposes Committee recommend that a Scrutiny Board (Resources and Council Services) is appointed, together with five themed Scrutiny Boards as follows:

- Scrutiny Board (Children and Families);
- Scrutiny Board (Safer and Stronger Communities);
- Scrutiny Board (Sustainable Economy and Culture);
- Scrutiny Board (Regeneration); and
- Scrutiny Board (Health and Well-being and Adult Social Care).

3.8 The Committee recommend that Council ask the five themed Scrutiny Boards to look at a number of key areas. These are shown in the Boards' terms of reference. The Committee also confirmed that in addition to the identified topics, all Scrutiny Boards would be able to set their own work programmes and determine areas of Scrutiny. The Committee also recommend that each Scrutiny Board shall review or scrutinise Call Ins, relating to the executive functions set out in their terms of reference and would receive and consider requests for Scrutiny.

3.9 The Committee also recommend that the Scrutiny Board (Safer and Stronger Communities) act as the authority's statutory crime and disorder committee. The Flood and Water Management Act 2010 requires the Council to review and scrutinise functions exercised by flood risk management authorities. It is recommended that this function is discharged by the Scrutiny Board (Sustainable Economy and Culture).

3.10 The Committee recommend that the Scrutiny Board (Resources and Council Services) is authorised to review or scrutinise decisions made, or other action taken in connection with the discharge of any functions which are the responsibility of the executive and which do not fall within the terms of reference of the five themed Scrutiny Boards.

3.11 General Purposes Committee therefore recommend full Council to appoint the Scrutiny Boards referred to above, with the terms of reference set out in appendices 3 – 8, which have been amended in accordance with the proposals of the Committee.

Terms of Reference - General Purposes Committee

3.12 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". This relates to Council functions which do not come within the terms of reference of any other Council committee, such as Plans Panel.

- 3.13 The Committee does not currently have authority to exercise these Council functions in the absence of a Director, or if a post were vacant. In the event of an urgent issue, full Council may have to exercise these functions if a Director was absent. This might present operational difficulties, not least in terms of achieving a quorum.
- 3.14 The General Purposes Committee therefore recommend that the terms of reference of the Committee are extended, 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 revised terms of reference are set out in appendix 9 to this report.

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

- 3.15 The post of Chief Recreation Officer will be vacant from 27 May 2011. General Purposes Committee therefore recommend the concurrent delegations to this post are withdrawn.
- 3.16 The Chief Recreation Officer currently has authority to make a special extinguishment order under Section 118B of the Highways Act 1980. The General Purposes Committee recommend this function is now concurrently delegated to the Chief Officer Highways and Transportation.
- 3.17 The Chief Planning Officer's delegation has an exception (h): "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.
- 3.18 The Committee recommends an amendment to the exception to refer to "Directors", instead of listing the relevant senior officers. Article 12 provides that any reference to "Director" in the constitution is deemed to include all officers listed in the Article, except where the context requires otherwise. The City Solicitor post is listed in Article 12, together with the other senior officer posts currently identified in the exception, so the reference will encompass all of these officers.

Council Procedure Rules

- 3.19 The General Purposes Committee recommend amendments to the Council Procedure Rules, as set out in appendix 10 to this report.
- 3.20 The amendments are:
- 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).
 - to CPR 13.1, 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).

Scrutiny Board Procedure Rules

3.21 The General Purposes Committee recommend a number of amendments to the Scrutiny Board Procedure Rules, for updating, clarity or consistency. The amendments include consequential amendments reflecting the recommended revised arrangements set out above. The principal additional amendments recommended are as follows:

- To Rule 1.5, to reflect the current practice and process for the nomination and confirmation of education co-optees;
- To add new Rule 11.22, to clarify the process to be followed when a petition is received by a Scrutiny Board Chair, in that capacity;
- To Rule 20:
 - to make decisions made during the development and approval of documents in the Budget and Policy Framework exempt from Call In, since approval of these documents is reserved to full Council in any event;
 - to insert procedures relating to Call In, which are currently contained within the Scrutiny Board Guidance Notes;
 - to remove the current restriction that a Member cannot be a signatory to a Call In if they sit on the Scrutiny Board that will hear the Call In; and
 - to require that Members consider financial implications before requesting a Call In.

3.22 The revised Rules are set out in appendix 11 to this report, and have been amended to reflect the recommendations of the Committee.

Area Committee Procedure Rules

3.23 After consideration of initial proposals at General Purposes Committee, and in response to discussions at that committee, Full Council is asked to approve amendments to Rule 5 of the Area Committee Procedure Rules relating to the appointment of Area Committee Chairs.

3.24 The proposals, developed in conjunction with Group Whips, preserve the role of Area Committees in appointing the Chair of Area Committees whilst also ensuring Area Committees meet in advance of the Annual Council Meeting to appoint Chairs and that any deadlock in this respect is capable of being resolved at the Annual Council meeting.

3.25 In addition the General Purposes Committee has recommended an amendment to Rule 6.7 (which sets out business to be considered by Area Committees), to require minutes from the Area Chairs' meetings to be formally considered. This would formalise relations between Area Committees and the Executive Member with responsibility for Area Management.

3.26 Appendix 12 to this report sets out these revised Rules.

4 Corporate governance considerations

4.1 Risk management

4.1.1 There is a risk that without regular review the Constitution will become out of date and no longer fit for purpose. In order to mitigate this risk, General Purposes Committee propose a series of amendments to the Constitution as outlined below.

4.2 Public Interest Test

4.2.1 In line with the Council's decision making principles of openness and transparency this report does not contain any confidential or exempt information and therefore the public interest test does not apply.

4.3 Forward Plan

4.3.1 This decision is not a key decision and therefore does not need to be included in the Forward Plan.

4.4 Scrutiny process: Call-In

4.4.1 This decision is not open to call-in as it relates to a Council (non-executive) function.

4.5 Constitution and legal matters

4.5.1 According to its terms of reference the General Purposes Committee is authorised to consider proposals to amend the constitution and make recommendations to full Council.

4.5.2 Some of the amendments recommended by General Purposes Committee and explained in this report are for the purposes of ensuring that the Constitution reflects current legislation.

4.6 Financial and resource implications

4.6.1 There are no financial or resource implications in relation to this report.

4.7 Equality and Diversity and Cohesion and Integration

4.7.1 There are no equality and diversity issues in relation to this report.

4.8 Council policies and City priorities

4.8.1 Principle 2 of the Code of Corporate Governance states that the Council should have clear responsibilities and arrangements for accountability, and as part of this the Council will publish and annually review the Constitution. This report outlines the result of that review.

4.9 Consultation

4.9.1 There has been no need to publicly consult on the proposed amendments to the Constitution. However, the proposed amendments have been considered and discussed by the General Purposes Committee, and their recommendations are detailed below.

5 Recommendations

5.1 Further to Committee's resolution, full Council are now recommended to:

- (a) approve the revised Article 4 as set out in appendix 1 to this report, (incorporating the local flood risk management strategy);
- (b) approve the revised Article 6 as set out in appendix 2 to this report (reflecting revised scrutiny arrangements, with 5 themed Scrutiny boards, and an additional Scrutiny Board (Resources and Council Services));
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6 Background documents

6.1 Leeds City Council Constitution

6.2 The following reports considered by the General Purposes Committee on 17 May 2011:

- Report of the City Solicitor – Annual Review of the Constitution;
- Report of the Head of Scrutiny and Member Development – Overview and Scrutiny – proposed changes and amendments to the constitution.