

Report of City Solicitor

Report to full Council

Date: 21 May 2012

Subject: Recommendations of General Purposes Committee

Are specific electoral Wards affected? If relevant, 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 At its meeting on 9 May 2012, General Purposes Committee considered items relating to:
 - the election and term of office of the Leader;
 - new standards arrangements under the Localism Act 2011;
 - a review of the decision making framework;
 - scrutiny arrangements;
 - miscellaneous constitutional amendments; and
 - a review of Council meetings.
- 2 This report sets out the recommendations from General Purposes Committee, relating to those items.

Recommendations

- 3 General Purposes Committee recommend full Council:
 - 3.1 In relation to **executive arrangements relating to the term of office for the Leader** and the power to remove the Leader during their term, to

- Confirm existing executive arrangements.
- Approve amendments to Council Procedure Rule 1 to reflect updated legislation and provide for the election of a Leader in the event of a vacancy.
- Note that the City Solicitor proposes to exercise her delegated authority to update Article 7 and Section 2A of Part 3 of the constitution, to reflect legislative changes.

3.2 In relation to **new standards arrangements**, with effect from 1 July 2012 (or such other date to be determined by the Secretary of State), to:

- Adopt the code of conduct set out in appendix 1 to this report.
- Delegate authority to the City Solicitor in consultation with Group Whips, to finalise the code of conduct in light of Regulations which will define disclosable Pecuniary Interests.
- Approve
 - the terms of reference for a Standards and Conduct Committee set out in appendix 2 to this report, to be appointed to replace the existing Standards Committee.
 - amendments to Council Procedure Rule 26 to provide for substitute members for new Standards and Conduct Committee.
 - Procedure Rules for the handling of complaints that a Member may have failed to comply with the code of conduct, as set out in appendix 3 to this report.

3.3 Further to the review of the executive decision making, to:

- Approve revised Article 13 as set out in Appendix 4 to this report.
- Approve Executive and Decision Making Procedure Rules, as set out in appendix 5 to this report.
- Withdraw concurrent delegations to Chief Officers under the Council's officer delegation scheme (Council functions).

3.4 Further to the review of scrutiny arrangements, to:

- Approve revised terms of reference for Scrutiny Boards, as set out in appendices 6 – 11 of this report.
- Approve revised Article 6 as set out in Appendix 12 to this report.
- Approve revised Scrutiny Board Procedure Rules as set out in appendix 13 to this report.

- Endorse the proposal of the Scrutiny Officer to remove guidance notes from the constitution, which relate to inquiry selection criteria, minority reports and equality and diversity/cohesion and integration issues.

3.5 Further to the annual review of the constitution, to:

- Approve amendments to Area Committee Procedure Rule 5, as set out in appendix 14 to this report.
- Remove the summary of delegated council functions, and appendix from Section 2A of Part 3 of the constitution.

3.6 Further to the review of Council meetings, to:

- Delegate to the City Solicitor authority to amend the Council Procedure Rules in consultation with the Group Whips, to
 - Introduce a new item to Council meetings, “Members’ community issues”.
 - Vary the order of Council business to allow for the receipt of recommendations from the Executive board and committees immediately after the item receiving reports from Statutory Officers.
 - Provide for full Council to receive minutes from joint authorities/committees, and the Leeds Initiative Strategic Partnerships, as well as committees.
 - Reduce the number of deputations to four.
 - Time limit White Paper Motions, and reserve submission of the first to the opposition.
- Agree that two State of the City meetings be held each municipal year.

1 Purpose of this report

1.1 This report presents recommendations to full Council from General Purposes Committee.

2 Background information

2.1 General Purposes Committee is authorised:

- to consider proposals to amend the constitution and make recommendations to full Council; and
- to make recommendations to full Council in connection with the discharge of any of its functions.

2.2 At its meeting on 9 May 2012, General Purposes Committee considered items relating to:

- the election and term of office of the Leader;
- new standards arrangements under the Localism Act 2011;
- a review of the decision making framework;
- scrutiny arrangements;
- miscellaneous constitutional amendments; and
- a review of Council meetings.

2.3 This report sets out the recommendations from General Purposes Committee, relating to those items.

2.4 The Localism Act 2011 amended provisions within the Local Government Act 2000 relating to **governance**.

2.4.1 New section 9I of the 2000 Act provides that executive arrangements must provide for the election of a Leader including where a vacancy arises. The section also confers discretion on the authority to decide the Leader's term of office. Previously, the term of office had to end on the day when the Council holds its first annual meeting after the Leader's normal day of retirement – usually a four year term.

2.4.2 New Section 9IA of the 2000 Act provides that executive arrangements must include provision to remove the Leader. Previously, this was not mandatory. The authority's executive arrangements currently provide for the Leader to be removed by resolution of full Council.

2.5 The 2011 Act also abolishes the Standards Board regime under the Local Government Act 2000, (including statutory standards committees and the statutory code of conduct), from a date to be appointed by the Secretary of State.

The Department for Communities and Local Government (DCLG) has advised that this date will be 1 July 2012.

- 2.5.1 Under the Localism Act, the authority has a duty to promote and maintain high standards of conduct by members and co-opted members of the authority, and in discharging this duty, adopt a code of conduct.
- 2.5.2 The authority must secure that its code is consistent with the following principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. The code must also set out the authority's requirements for the registration and disclosure of pecuniary and non-pecuniary interests. The Secretary of State will issue regulations defining "disclosable pecuniary interests" – those which must be registered, and will restrict involvement in meetings.
- 2.5.3 The police will be responsible for dealing with specified complaints relating to pecuniary interests. However, the authority must put in place arrangements to deal with other written complaints that the code has been breached (including complaints about parish councillors).
- 2.5.4 The authority is required to appoint at least one Independent Person, from whom the authority must seek a view, before deciding a complaint. It is anticipated that Full Council will consider the appointment of an Independent Person (following an open recruitment process) in July 2012.
- 2.5.5 Any committee appointed to deal with standards and conduct issues will be an ordinary committee subject to the requirements relating to political balance. Co-opted members to such a committee would not be able to vote.
- 2.6 This report also sets out other amendments to the constitution recommended following a **review of the executive decision making framework** by the Director of Resources and the City Solicitor.
 - 2.6.1 Although elements of the decision-making framework are required by law, (notice and recording of key decisions, forward plan, call-in), the Council may exercise discretion in defining its key decisions, and identifying which decisions are open to call-in.
 - 2.6.2 The Council currently categorise executive decisions as key, major, significant operational, or administrative. Key decisions are those likely to result in the authority incurring expenditure or making savings over £250,000, or to have a significant effect on communities living or working in an area comprising two or more wards. Major decisions are those over £100,000, or with a significant effect on one or more ward. Significant operational decisions are those which are neither key nor major, but fall within a list of specified types of decisions. Other executive decisions are administrative.
 - 2.6.3 Of these, key and major decisions are currently open to call-in, together with decisions of the Executive Board, and area committees.
 - 2.6.4 The review identified amendments to the definition of decisions and call-in provisions to enhance Ward Member engagement in decision-making, speed the

implementation of area committees' decisions, and make decision making arrangements more transparent, with a focus on clear accountability. It also identified that introducing new Executive and Decision Making Procedure Rules would provide clarity and transparency, as would withdrawing existing concurrent delegation arrangements.

- 2.7 The Scrutiny Officer has conducted the annual **review of scrutiny arrangements**. This focussed on facilitating the scrutiny of key partnership arrangements, by requiring each Scrutiny Board to act as a "critical friend" to a specified key partnership, as well as continuing to challenge service directorates.
- 2.8 The City Solicitor has also conducted the **annual review of the constitution**, and identified some minor amendments.
- 2.9 A **review of ordinary Council meetings** has also been carried out, focussing on allowing greater opportunities for Council to engage in activities linked to Community Leadership, and to hold the Executive to account.

3 Main issues

3.1 Executive arrangements

- 3.1.1 To comply with transitional arrangements, the authority's executive arrangements relating to the terms of office and the power to remove the Leader need to be reviewed. Specifically, Council Procedure Rule 1 needs to be amended to reflect updated legislation and provide for the election of a Leader in the event of a vacancy.
- 3.1.2 Existing executive arrangements relating to the current term of office for the Leader may be retained, if they are considered to promote continuity and stability. As stated above, the authority already has an existing power to remove the Leader, which promotes accountability.
- 3.1.3 The City Solicitor proposes to exercise her delegated authority to update Article 7 and Section 2A to reflect minor legislative changes.

3.2 Standards arrangements

- 3.2.1 The preparation of a code of conduct for Members has been undertaken by a cross party working group of members with support provided by officers. Full Council is asked to agree the Members' **Code of Conduct** attached at Appendix 1. As the Secretary of State has yet to issue regulations defining disclosable pecuniary interests, the code will need to be finalised by the insertion of the definitions of disclosable pecuniary interest, in due course.
- 3.2.2 To support the new conduct arrangements;
- **Terms of reference for a Standards and Conduct Committee** are set out in appendix 2 to this report. It is envisaged that the Standards and Conduct Committee will appoint a sub-committee to deal with any complaints which require formal resolution.

- **Procedure Rules** for the handling of complaints that a Member may have failed to comply with the code of conduct are set out in appendix 3 to this report. The procedure provides for the Monitoring Officer or their nominee to receive complaints, and decide whether the complaint is valid. It provides for Members to be made fully aware of the complaint from the date of its receipt, and to present their case before the Standards and Conduct Committee.

3.2.3 Following the implementation of the new standards arrangements, the **codes and protocols** relating to Member/Officer relations, determining planning applications, and determining licensing applications will need to be withdrawn and reviewed by the Standards and Conduct Committee.

3.3 Executive Decision Making

3.3.1 A revised **Article 13** is set out as Appendix 4 to this report. This retains the £250,000 threshold for key decisions. However, the definition of expenditure or savings is widened to include the “receipt or loss of income”, and to include a decision likely to have a significant effect on communities in **one or more ward**. The category of major decisions is deleted, as most major decisions would then fall within the extended definition of key decisions. A simplified definition of significant operational decisions is also inserted into the Article, together with the definition of administrative decisions.

3.3.2 Currently, the Council’s **officer delegation scheme (Council functions)** contains concurrent delegations to some Chief Officers and Directors. Withdrawing the concurrent delegations to Chief Officers will simplify delegation arrangements and provide clarity responsibility and accountability. It is also consistent with the Leader’s decision to withdraw all concurrent delegations to Chief Officers in the officer delegation scheme (executive functions).

3.3.3 New **Executive and Decision Making Procedure Rules** are set out in appendix 5 to this report. The new rules consolidate existing decision-making procedures, and so provide clarity and transparency. Rules 1 and 2 fall to the Executive to approve, the remainder to Council. Rule 4.9 reduces the range of decisions which are subject to call-in, by excluding decisions made by Area Committees. This will increase the speed of implementation of Area Committee decisions and will have a negligible impact on Members’ involvement in decision making, as these decisions are being made by ward Members in relation to their own areas.

3.4 Scrutiny Arrangements

3.4.1 Revised **terms of reference for Scrutiny Boards**, are set out in appendices 6 – 11 of this report. To facilitate the scrutiny of key partnerships, it is proposed that instead of including topics for review, the terms of reference identify the key partnership and the specific “best City for ...” priority within the City Priority Plan, for each Scrutiny Board to review. The revised terms of reference for the Scrutiny Boards for Sustainable Economy and Culture, Safer and Stronger Communities, and Resources and Council Services, as determined by the functions of the relevant directors, align more closely with the priorities which each will review, as does the new Scrutiny Board (Housing and Regeneration), which replaces the Scrutiny Board (Regeneration).

- 3.4.2 A revised **Article 6** is set out as Appendix 12 to this report. The amendments include updates following legislative changes, and reflect the appointment of a new Scrutiny Board (Housing and Regeneration).
- 3.4.3 Revised **Scrutiny Board Procedure Rules** are set out in appendix 13 to this report. New Rule 10.3 relates to the role of a Scrutiny Board to act as “critical friend” to a key partnership. Other amendments reflect legislative changes, including those which broaden Members’ powers to make councillor calls to action, and extend the authority’s powers to require a partnership authority to have regard to a Scrutiny Board’s reports or recommendations. The Rules also reflect regulations relating to the scrutiny of flood risk management. Some of the amendments shown are contingent upon full Council’s approval of the new Executive and Decision Making Rules.
- 3.4.4 The Scrutiny Officer also proposes to **remove guidance notes** from the constitution, which relate to inquiry selection criteria, minority reports and equality and diversity/cohesion and integration issues. The revised Scrutiny Board Procedure Rules retain key provisions from these guidance notes.

3.5 Annual review of the constitution

- 3.5.1 Amendments to **Area Committee Procedure Rule 5**, are set out in appendix 14 to this report. The amendments clarify and facilitate existing procedures for nominating and electing Area Committee chairs.
- 3.5.2 The summary of delegated functions and an appendix to the summary of functions to be discharged by full council act simply as “signposts” to other provisions. Removing the **summary of delegated functions and appendix** would reduce the administrative burden of making sure they are up to date.

3.6 Review of Council meetings

- 3.6.1 A new item, “Members’ community issues,” will facilitate backbench engagement at full Council meetings, and promote the accountability of the Executive. It is proposed that the new item be allocated up to an hour, with up to two topics being reserved to the largest political group, and a further 4 being distributed to opposition groups.
- 3.6.2 To promote accountability, the period of question time, and the receipt of minutes are also proposed to be retained. However, to promote engagement with partners, it is proposed that minutes be also received from joint authorities/joint committees, and from Leeds Initiative Partnerships.
- 3.6.3 It is proposed that the order of Council business be varied to allow for the receipt of recommendations from the Executive Board and committees immediately after the item receiving reports from statutory officers.
- 3.6.4 Deputations are considered a valuable link to the community, and therefore should be retained. However, in view of the introduction of Members’ community concerns, it is proposed that deputations be limited to four.

- 3.6.5 It is also proposed, that the number of White Papers to be considered at Council could be restricted to two, with a time limit of half an hour introduced for each individual White Paper. To promote engagement by backbenchers, the submission of the first White Paper could be reserved to opposition groups.
- 3.6.6 As the first state of the city meeting was considered a success, it is proposed that two such meetings be scheduled for each municipal year.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.7 Group Whips established a cross-party working group to consider the new standards arrangements for Members.
- 4.1.8 Members from across all political groups were consulted on the proposals relating executive decision making. These included senior group members, Scrutiny Chairs, and the Chair of the Corporate Governance and Audit Committee.
- 4.1.9 The proposal to amend scrutiny arrangements to focus on partnerships is endorsed by the Head of Leeds Initiative.
- 4.1.10 There have been cross-party discussions with Group Whips, Leaders and other senior Councillors about reviewing Council meetings.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 There are no implications for equality and diversity/cohesion and integration arising from these recommendations. In relation to the code of conduct, equality and diversity issues are addressed by the principles of selflessness, objectivity and leadership.

4.3 Council policies and City Priorities

- 4.3.1 The Council's Business Plan 2011-15 sets out the Council's priorities. Those relating to the Corporate directorate require "good rules and procedures to govern the Council's business".
- 4.3.2 The proposed new standards arrangements are consistent with the principles in the Code of Corporate Governance, particularly that relating to good conduct and behaviour.

4.4 Resources and value for money

- 4.4.1 The new standards arrangements should realise savings, as Special Responsibility Allowances will no longer be paid to current Independent and Parish Members, and investigations will no longer be referred to external solicitor. Savings will be partially off-set by fees payable to the Independent Person, and expenses to any co-opted parish members.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The recommended new standards arrangements comply with the requirements of the Localism Act 2011. Other amendments to the constitution are also required to comply with legislative changes.

4.5.2 No part of this report is confidential or exempt, and the report relates to Council functions, and so is not open to call-in.

4.6 Risk Management

4.6.1 The constitution should be updated to reflect legislative changes, and increase clarity, therefore reducing risk of challenge.

5 Conclusions

5.1 The constitution should be amended to ensure it is fit for purpose, in terms of complying with the law, and promoting clarity, transparency and accountability.

6 Recommendations

6.2 General Purposes Committee recommend full Council:

6.2.1 In relation to **executive arrangements relating to the term of office for the Leader** and the power to remove the Leader during their term, to

- Confirm existing arrangements.
- Approve amendments to Council Procedure Rule 1 to reflect updated legislation and provide for the election of a Leader in the event of a vacancy.
- Note that the City Solicitor proposes to exercise her delegated authority to update Article 7 and Section 2A of Part 3 of the constitution, to reflect legislative changes.

6.2.2 In relation to **new standards arrangements**, with effect from 1 July 2012 (or such other date to be determined by the Secretary of State), to:

- Adopt the code of conduct set out in appendix 1 to this report.
- Delegate authority to the City Solicitor in consultation with Group Whips, to finalise the code of conduct in light of Regulations which will define disclosable Pecuniary Interests.
- Approve
 - the terms of reference for a Standards and Conduct Committee set out in appendix 2 to this report, to be appointed to replace the existing Standards Committee.
 - amendments to Council Procedure Rule 26 to provide for substitute members for new Standards and Conduct Committee.

- Procedure Rules for the handling of complaints that a Member may have failed to comply with the code of conduct, as set out in appendix 3 to this report.

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6.2.4 Further to the **review of scrutiny arrangements**, to:

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- Endorse the proposal of the Scrutiny Officer to remove guidance notes from the constitution, which relate to inquiry selection criteria, minority reports and equality and diversity/cohesion and integration issues.

6.2.5 Further to the **annual review of the constitution**, to:

- Approve amendments to Area Committee Procedure Rule 5, as set out in appendix 14 to this report.
- Remove the summary of delegated council functions, and appendix from Section 2A of Part 3 of the constitution.

6.2.6 Further to the **review of Council meetings**, to:

- Delegate to the City Solicitor authority to amend the Council Procedure Rules in consultation with the Group Whips, to
 - Introduce a new item to Council meetings, "Members' community issues".
 - Vary the order of Council business to allow for the receipt of recommendations from the Executive board and committees immediately after the item receiving reports from Statutory Officers.
 - Provide for full Council to receive minutes from joint authorities/committees, and the Leeds Initiative Strategic Partnerships, as well as committees.

- Reduce the number of deputations to four.
- Time limit White Paper Motions, and reserve submission of the first to the opposition.
- Agree that two State of the City meetings be held each municipal year.

7 Background documents¹

7.1 None

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.