



Report to Council

Report of: Chief Executive

Date: 1 October 2014

Subject: Changes to the Constitution

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Summary:

This report provides details of proposed changes to the Constitution.

Recommendations:

That the Council considers adopting the changes to the following Parts of the Constitution, as set out in the report and appendices:-

- (a) Part 4 - Scrutiny Procedure Rules
 - (b) Part 4 - Access to Information Procedure Rules
 - (c) Part 5 - Protocol for Member/Officer Relations
 - (d) Part 5 - Officers' Code of Conduct
 - (e) Part 7 - Management Structure and Statutory/Proper Officers
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Background Papers:

None

Category of Report: OPEN

Statutory and Council Policy Checklist

Financial implications
NO
Legal implications
YES
Equality of Opportunity implications
NO
Tackling Health Inequalities implications
N/A
Human rights implications
N/A
Environmental and Sustainability implications
N/A
Economic impact
N/A
Community safety implications
N/A
Human resources implications
N/A
Property implications
N/A
Area(s) affected
None
Relevant Cabinet Portfolio Leader
Cllr Julie Dore
Relevant Scrutiny Committee
Overview and Scrutiny Management Committee – Decision not subject to call-in
Is the item a matter which is reserved for approval by the City Council?
Yes
Press release
NO

1. Introduction

1.1 This report provides details of proposed changes to the Council's Constitution.

2. Background

2.1 To ensure that the Constitution is kept up to date, there is a regular review process and, where changes are required, these are submitted to Full Council for approval. Changes were last approved by Full Council in September 2014.

2.2 In addition, the Interim Director of Legal and Governance, in consultation with the Lord Mayor, has delegated authority to make any minor and consequential drafting changes to the Constitution. There have been no minor changes approved since April 2014.

3. Proposed Changes and Reasons**3.1 Part 4- Scrutiny Procedure Rules and Access to Information Procedure Rules (Overview and Scrutiny Management Committee, Council Acting as Charitable Trustee and Call-in)**

3.1.1. A number of relatively minor changes are proposed to the Scrutiny Procedure Rules relating to the Overview and Scrutiny Management Committee, call-in and to update the title of an officer post.

3.1.2 One proposed change is to reflect in Scrutiny Procedure Rule 1 that the Overview and Scrutiny Management Committee will undertake scrutiny of the Council's corporate activities which is already included in its terms of reference. Another is to strengthen public involvement by including in SPR 9 that members of the public are able to contact the Chairs and Deputy Chairs of the Scrutiny Committees to suggest issues to be considered by the Committees.

3.1.3 One of the courses of action available during a call-in of a decision is for the Scrutiny Committee to take no action but consider whether issues arising from the call-in need to be added to the work programme of an existing Scrutiny Committee. A small amendment is proposed to that Scrutiny Procedure Rule 16 (c) to reflect the current practice that when a Scrutiny Committee decides to take no action it can also consider whether issues arising from the call-in need to be fed back to the decision maker.

3.1.3 Arising from an issue raised previously by Members in relation to whether decisions relating to the Council acting as Charitable Trustee are subject to call-in, it has been confirmed that the Leader has reserved decisions of the Council made as Charity Trustees to Cabinet. Therefore, Scrutiny Procedure Rule 16 and Access to Information Procedure Rule 18.3 will be amended to make it clear that such decisions are subject to call-in.

3.1.4 The proposed changes are set out at Appendices A and B.

3.2 Part 4 - Access to Information Procedure Rules/ Scrutiny Procedure Rules (Urgent Decisions)

3.2.1 The Access to Information Procedure Rules and Scrutiny Procedure Rules contain provisions for taking urgent decisions and it is proposed make the process for removal from call-in more transparent. There is also some general tidying up of the wording in both sets of Rules.

3.2.2 Access to Information Procedure Rule 15 sets out the statutory process for special urgency for taking a key decision where it is not possible to give 28 days' notice of a proposed decision or publish the report 5 clear days before the decision is to be taken. In these circumstances, the decision can only be taken if the decision maker has the agreement of the Chair of the relevant Scrutiny and Policy Development Committee that making the decision is urgent and cannot reasonably be deferred. There will be no change to this arrangement

3.2.3 Although not a statutory requirement, Access to Information Procedure Rule 15 also includes an automatic exemption from call-in. To make the process more transparent, it is proposed to remove this automatic exemption and deal with any request for exemption under Scrutiny Procedure Rule 17.

3.2.4 Scrutiny Procedure Rule 17 deals with the 'Fast Track' process for the removal from call-in for urgent non-key decisions. It is proposed to apply this Rule to both key and non-key urgent decisions and to include a requirement that the Chair of the relevant Scrutiny and Policy Development Committee is informed that the decision is urgent, prior to the decision being made.

3.2.4 The proposed changes are set out in Appendices C and D.

3.3 Part 5 - Protocol for Member/Officer Relations

3.3.1 Two minor changes are required to the Protocol for Member/Officer Relations to update a post title and amend the reference to an appendix. These changes are set out in Appendix E.

3.4 Part 5 – Officers' Code of Conduct

3.4.1 A number of minor amendments are required to the Officers' Code of Conduct to reflect the updated Policy and Procedure for Declarations of Interest. A summary of the proposed changes is attached at Appendix F and the proposed changes are set out at Appendix G.

3.5 Part 7 – Management Structure and Statutory/Proper Officers

3.5.1 The list of Statutory and Proper Officers has been updated to reflect changes in legislation and updated officer post titles. These changes are set out in Appendix H.

5. **Legal Implications**

5.1 Except where delegated by Council (see paragraph 2.2 above), variations to the Constitution may only be made by Full Council.

6. **Financial Implications**

6.1 There are no financial implications.

7. **Recommendations**

7.1 That the Council considers adopting the changes to the following Parts of the Constitution, as set out in the report and appendices:-

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- (d) Part 5 - Officers' Code of Conduct
- (e) Part 7 - Management Structure and Statutory/Proper Officers

John Mothersole
Chief Executive

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