



SHEFFIELD CITY COUNCIL Report to Council

Report of: Director of Legal and Governance

Date: 20 July 2022

Subject: Updates to the Constitution

Author of Report: Jason Dietsch, Head of Democratic & Member Services

Summary:

This report (a) seeks approval for a change to be made to the time limit for meetings of the Policy Committees, as recommended by the Governance Committee, (b) seeks approval for several minor or consequential changes to be made to the Council's Constitution and (c) provides details of other minor or consequential changes that have been made to the Council's Constitution since its approval on 18th May 2022.

Recommendations:

That the Council (i) approves the changes to the various Parts of the Constitution, as outlined in sections 3.1 and 3.2 of the report and as set out in appendices A to H; and

(ii) notes the minor and consequential changes to Part 3.3 of the Constitution that had been made by the Director of Legal and Governance, as outlined in section 3.3 of the report and as set out in appendices I and J.

Background Papers: NONE

Category of Report: OPEN

Statutory and Council Policy Checklist

Financial Implications
NO Cleared by:
Legal Implications
YES Cleared by: Andrea Simpson
Equality of Opportunity Implications
NO Cleared by:
Tackling Health Inequalities Implications
NO
Human rights Implications
NO:
Environmental and Sustainability implications
NO
Economic impact
NO
Community safety implications
NO
Human resources implications
NO
Property implications
NO
Area(s) affected
None
Is the item a matter which is reserved for approval by the City Council?
YES
Press release
NO

1. Introduction

- 1.1 An updated Constitution for the City Council, reflecting the new committee system of governance to be operated by the Council from the Municipal Year 2022-23, was approved at the annual meeting of the Council held on 18th May 2022. The Council also authorised the Director of Legal and Governance to undertake any minor and consequential drafting changes to that Constitution, as may be necessary as the new system is embedded.
- 1.2 This report (a) seeks approval for a change to be made to the time limit for meetings of the Policy Committees, as recommended by the Governance Committee, (b) seeks approval for several minor or consequential changes to be made to the Council's Constitution and (c) provides details of other minor or consequential changes that have been made to the Council's Constitution, authorised by the Director of Legal and Governance.

2. Background

- 2.1 The Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, whilst others are a matter for the Council to choose. The Constitution contains 17 Articles in Part 2, which set out the basic rules governing the Council's business. Part 3 of the Constitution sets out who is responsible for making what decisions, including remits of Committees and arrangements for delegation to officers. More detailed procedures and codes of practice are provided in separate rules and protocols contained within the other parts of the Constitution.
- 2.2 In accordance with Article 16 of the Constitution (Review and Revision of the Constitution), changes to the Constitution will only be made with the approval of the Full Council, after consideration of the proposal by a Committee of the Council, the Chief Executive or the Monitoring Officer.
- 2.3 In addition, however, the 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.

3. Proposed Changes and Reasons

- 3.1 Time Limit for Meetings of Policy Committees – Council Procedure Rule 5.11
- 3.1.1 At its meeting held on 30th June 2022, the Council's Governance Committee considered a report on planning for the 6-month review of the

new committee system of governance. Members of the Committee, in discussing their experiences of the launch of the new system and first round of Policy Committees, referred to the operation of the two hour and 30 minute time limit which had been stipulated for the meetings, and believed that a degree of flexibility should be introduced in relation to the duration of those meetings.

3.1.2 The Committee agreed to recommend to full Council, that a change be made to paragraph 5.11 of the Council Procedure Rules in Part 4 (Rules of Procedure) of the Constitution, to enable Policy Committees to agree to continue beyond the 2 hour and 30 minute time limit by a period of not more than 30 minutes on up to two occasions in any one meeting.

3.1.3 The proposed change is set out in Appendix A to this report.

3.2 Minor or Consequential Changes To Be Made To The Constitution

3.2.1 A minor correction is required to be made at paragraph 2.01 of Article 2 (Members of the Council) in Part 2 of the Constitution, to state the correct name for the Local Government Boundary Commission.

The proposed change is set out in Appendix B to this report.

3.2.2 A consequential change is required to be made at paragraph 4.02(f) of Article 4 (The Full Council) in Part 2 of the Constitution to replace “Local Government Ombudsman” with “an Ombudsman” to mirror use of the same term in the responsibilities of the Strategy and Resources Policy Committee in Part 3.3.1 of the Constitution and reflect the fact that the function applies to other reports such as those of the Housing Ombudsman.

The proposed change is set out in Appendix C to this report.

3.2.3 A consequential change is required to be made to update the remit of the Communities, Parks and Leisure Policy Committee in Part 3 (Responsibility for Functions) of the Constitution. Additional functions relating to the Voluntary Sector, which had been overlooked due to a change in Directors’ responsibilities, are to be added to the Committee’s remit.

The proposed change is in Part 3.3 (Matters Delegated to Committees and Sub-Committees), specifically in section 3.3.1 (Policy Committees), and is set out in Appendix D to this report.

3.2.4 A minor correction is required to be made in Part 3.5 (Arrangements For The Delegation Of Functions To Officers) of the Constitution, specifically in paragraph 3.5.9, to include the full title of the Director of Investment, Climate Change and Planning.

The proposed change is set out in Appendix E to this report.

- 3.2.5 Minor corrections are required to be made to the Council Procedure Rules in Part 4 (Rules of Procedure) of the Constitution to remove a duplicate word in CPR 10.6 and to correct the wording in CPR 18.5.

The proposed changes are set out in Appendix F to this report.

- 3.2.6 Consequential changes are required to be made to the Committee Chair Job-Share Protocol in Part 5 (Codes and Protocols) in the Constitution to state that the Chairs of the Regulatory Committees, each with equal full responsibility for the role, are designated as “Joint Chairs”, and the job-share chairs, i.e. two Members jointly to share the position of Committee Chair, that have been appointed to the Policy Committees, are designated as “Co-Chairs”. This change to the respective designations reflects the practice in operation.

The proposed changes to the Protocol are set out in Appendix G to this report.

- 3.2.7 A consequential change is required to be made to the list of Proper Officers under Section 4 of Part 7A (Statutory and Proper Officers) of the Constitution, to change the designation of the Proper Officer for the statutory requirements set out under section 37 of the Counter Terrorism and Security Act 2015, following an officer retirement.

The proposed change is set out in Appendix H to this report.

3.3 Minor or Consequential Changes Previously Made To The Constitution

- 3.3.1 Prior to the publication of the Constitution approved by the Council at its annual meeting on 18th May, 2022, a couple of minor and consequential changes were made by the Director of Legal and Governance under the authority granted to her at the annual meeting. These changes were to Part 3.3 (Matters Delegated to Committees and Sub-Committees) within Part 3 (Responsibility for Functions) of the Constitution and are referenced below.

- 3.3.2 A consequential change was made within the section in Part 3.3 as relates to property matters reserved to the Strategy and Resources, or its Finance Sub-Committee, and specifically relating to disposals at less than best consideration.

The change that had been made is set out in Appendix I to this report, and enables Strategy and Resources Policy Committee or Finance Sub-Committee to make all the decisions previously reserved to Members (as Cabinet or Individual Cabinet Member), as recommended by the Governance Committee and agreed by Full Council. The previous version, presented to full Council, had omitted the reservation to Cabinet, having the effect that the Committee could make decisions previously reserved to the ICM but the Chief Property Officer would have

to make decisions previously reserved to Cabinet.

- 3.3.3 Minor corrections were made within the terms of reference for the Audit and Standards Committee to refer to the Councillor Code of Conduct, rather than to the Members' Code of Conduct, reflecting the Councillor Code of Conduct which is contained in Part 5 (Codes and Protocols) of the Constitution.

The changes that had been made are set out in Appendix J to this report.

4. Legal Implications

- 4.1 Except where delegated by Council as indicated at paragraph 2.3, variations to the Constitution may only be made by Full Council.
- 4.2 Under Section 9P of the Local Government Act 2000, the Council must prepare a constitution and keep it up to date. It must be available to the public and, under the Local Government Transparency Code 2015, be published on the Council's website. The proposed changes in this report will bring parts of the Constitution up to date to comply with the legislation.

5. Financial and Commercial Implications

- 5.1 There are no financial or commercial implications.

6. Equality of Opportunity Implications

- 6.1 There are no equalities implications

Extract From The Sheffield City Council Constitution:
Part 4 (Rules of Procedure) – Council Procedure Rules

5. Meetings of the Council and Other Bodies

- 5.11 Meetings of Policy Committees shall be conducted according to the following procedures:- (a) Meetings shall last no longer than 2.5 hours, subject to the proviso that Members may, by agreement, continue beyond such time limit by a period of not more than 30 minutes on up to two occasions in any one meeting; (b) Any unfinished business after the period of 2.5 hours (or up to 3.5 hours by agreement) shall be deferred to the next meeting of the Body, or be voted on without debate.~~of all Policy Committees shall last no longer than two hours and 30 minutes.~~ Extraordinary meetings may be called by the Chair of the Committee, in consultation with the Monitoring Officer.

Extract From The Sheffield City Council Constitution:
Part 2, Article 2 (Members of the Council)

2.01 Composition and Eligibility

- (a) **Composition.** The Council comprises 84 Members, otherwise called Councillors. Councillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the [Local Government Boundary Commission](#) ~~Committee for England~~ and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the District or those living or working there will be eligible to hold the office of Councillor.

Extract From The Sheffield City Council Constitution:
Part 2, Article 4 (The Full Council)

4.02 Functions of the Full Council

Only the Full Council will exercise the following functions:

- (f) consideration of adverse reports of ~~the Local Government~~ [an](#) Ombudsman where it is proposed that the Council take no action or the recommended action should not be taken (Section 31A, Local Government Act 1974);

Extract From The Sheffield City Council Constitution:
Part 3 (Responsibility for Functions) - Part 3.3 (Matters Delegated to Committees and Sub-Committees) - Section 3.3.1 (Policy Committees)

COMMUNITIES, PARKS AND LEISURE POLICY COMMITTEE

Council Functions

The following functions are within the remit of Community, Parks and Leisure Policy Committee:

- Communities
 - Community Development
 - Cohesion and Migration
 - Community Safety
 - Youth Services
- Parks, Leisure and Libraries
 - Sport, physical activity and leisure facilities
 - Parks and Woodlands (including non-highway trees)
 - Allotments
 - Ecology
 - Bereavement Services
 - Libraries
- Voluntary Sector
 - Voluntary Sector Liaison
 - Voluntary Sector Grants including Grant Aid
 - Strategic lead on relationships and development with the Voluntary, Community and Faith Sector building capacity and sustainability in the sector

Extract From The Sheffield City Council Constitution:
Part 3 (Responsibility for Functions) - Part 3.5 (Arrangements For The Delegation Of
Functions To Officers)

3.5.9 Other Highways Related Issues

Other than those matters reserved to a committee or Full Council, any functions in relation to the Council's roles as Highways Authority and Road Traffic Authority, including transport and parking (except any function that relates to highways maintenance and street naming and numbering and section 287, Highways Act 1980 (power to erect barriers in streets in cases of emergency)) may be discharged by the Chief Executive, by the Executive Director, City Futures, by the Director of Investment, ~~and~~ Climate Change and Planning and by the Head of Strategic Transport, Sustainability and Infrastructure in each case acting individually.

Other than those matters reserved to a committee or Full Council, any functions in relation to the Council's role as Highways Authority in so far as they relate to highways maintenance and street naming and numbering and section 287, Highways Act 1980 (power to erect barriers in streets in cases of emergency) may be discharged by the Chief Executive, by the Executive Director, Operational Services, by the Director of Street Scene and Regulation and by the Head of Highways Maintenance in each case acting individually.

Extract From The Sheffield City Council Constitution:
Part 4 (Rules of Procedure) – Council Procedure Rules

10. Notices of Motion to Council

10.6 Motions regarding a matter which is delegated to a Committee

A motion will not be valid if it would have the effect of binding a Committee on a matter which falls within that Committee's delegated authority, to the extent that the decision of that Committee becomes predetermined. The Committee will have regard to the resolution of the Council ~~resolution~~ when it considers the matter at a meeting which meets the requirements set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

18. Notices of Motion to Council

18.5 Electronic voting

Where facilities for electronic voting or the electronic recording of votes are available, this system will be used. The vote will be recorded and published but (unless demanded) such a vote shall not be a recorded vote as described in paragraph 18.6 below and shall not be entered ~~into~~ the minutes as such. At the meeting the Chair will announce the number of Members voting for, against and abstaining and then announce the outcome of the vote.

Sheffield City Council Constitution:
Part 5 (Codes & Protocols) – Committee Chair Job-Share Protocol

COMMITTEE CHAIR JOB-SHARE PROTOCOL

The Council may appoint two Members jointly to share the position of Committee Chair (Job-Share Chairs, or Co-Chairs). This Protocol sets out the arrangements and expectations where the role is shared.

Why have Job-Share Chairs?

The potential benefits include:

- Making chairmanship (and leadership positions in general) potentially available to those Members who would not otherwise be able to make the necessary time commitment for whatever reason;
- Ensuring that Sheffield City Council does not lose out on the leadership contribution of Chairs who are also carers, parents or in full-time education or work;
- Increasing the capacity and broadening the capability of Chairs;
- Recognising the likely workload of these positions;
- Creating opportunities for a more representative sample of Members to take leadership roles, for example facilitating a gender balance.

What is Job-Sharing?

- Two Members essentially fulfil one Chair position on a job-share basis.
- The posts could also be combined with the role of Deputy Chair, or where there is a single Chair the role of Deputy Chair may be job-shared, or the committee may decide that it does not need an additional Deputy Chair role.
- There is only one formal Chair of a meeting at any one time and only that Chair has the casting vote.
- The other Job-Share Chair attends the meeting as an ordinary committee member when their counterpart is in the Chair.
- Outside meetings, the Job-Share Chairs arrange between themselves how their responsibilities are shared and ensure that other Members and Officers are informed.
- Both Members receive a Special Responsibility Allowance, or a proportion of one, recognising the scale of the role they are undertaking and the associated time commitment.

Ways of Working

1. Job-Share Chairs will agree between themselves the arrangements for chairing meetings. They may take turns at alternate meetings, or on a periodic rotation, or otherwise, providing that when the relevant Job-Share Chair is not available the other Job-Share Chair or in their absence the Deputy Chair will chair the meeting.

Sheffield City Council Constitution:
Part 5 (Codes & Protocols) – Committee Chair Job-Share Protocol

2. Chair's briefings by Officers may be attended by both Job-Share Chairs and the Deputy Chair.
3. Cross-party briefings for Chairs and spokespersons may be attended by both Job-Share Chairs provided only one of them speaks. Where briefings are for all Members, or members of a committee, both may attend and speak.
4. Where there are Job-Share Chairs for a Policy Committee only one may be appointed to Strategy and Resources Policy Committee by virtue of being the Chair of their committee. The appointment will be made at the Annual Meeting of the Council but as with any committee membership Full Council may agree a change at a subsequent meeting provided that this does not affect the political proportionality of the committee.
5. Job-Share Chairs must arrange between themselves how their responsibilities are to be shared and ensure that other Members and Officers are informed about the arrangements. This is important for clarity and certainty.
6. The arrangements may include dividing responsibilities so that each leads on separate specific areas of the committee's remit. The Job-Share Chairs shall provide Officers with a breakdown of those areas indicating who is the first point of contact where guidance from the Chair is required.
7. Outside of formal committee meetings, Job-Share Chairs will each act as the first point of contact for their areas of the committee's business when working with council officers, residents, partners etc.
8. Email correspondence from Members and Officers should be sent to both Job-Share Chairs, ideally addressed to the one who is responsible for the particular area covered in the communication, with the other copied in.
9. Officers are not required to obtain agreement from both Job-Share Chairs when seeking guidance on a course of action. They will assume that any steer or guidance provided by one Job-Share Chair is on behalf of both. Job-Share Chairs shall be responsible for consulting each other on issues and for reaching a consensus prior to providing guidance to Officers.
10. These arrangements are the minimum expected. Job-Share Chairs are expected to consult with relevant Officers and supplement them with additional requirements as necessary.
11. The above arrangements are for guidance only and failure to comply with the proposed arrangements shall not affect the legal validity of any action taken by an Officer, the Chair or the Committee.

Sheffield City Council Constitution:
Part 5 (Codes & Protocols) – Committee Chair Job-Share Protocol

12. The ongoing review process into the operation of the Committee System shall include a full review of these Job-Share Chair arrangements after such a role has been shared for the first time. The review may consider the option for Job-Share Chairs who are members of the same political group to decide between themselves which one should attend a meeting of Strategy and Resources Policy Committee.

Remuneration

It is a matter for the Independent Remuneration Panel to consider the workloads of Job-Share Chairs and make recommendations on their remuneration. For example, it may be that in a new system, the roles of Chairs could be designed to be more time consuming than one person could manage, meaning that each Job-Share Chair is doing more than half of a role.

It is however the responsibility of the Job-Share Chairs to make sure that their joint workload is spread proportionately so that, for example, neither is doing a full-time post for half the Special Responsibility Allowance.

Co-Chairs

~~Co-Chairs, each with equal full responsibility for the role, may be appointed to the Regulatory Committees in recognition of the fact that they meet more frequently than other committees.~~

~~A maximum of two Co-Chairs may be appointed to any one committee. If Co-Chairs are appointed then a Deputy Chair shall not be appointed to that committee. The Co-Chair role cannot be job-shared.~~

~~As with Job-Share Chairs, only one Co-Chair can chair a committee meeting and have the casting vote at any one time. The other attends the meeting as an ordinary committee member. The Chair will be identified at the start of the meeting.~~

Joint Chairs

Two Chairs, each with equal full responsibility for the role, may be appointed to the Regulatory Committees in recognition of the fact that they meet more frequently than other committees.

A maximum of two joint Chairs may be appointed to any one committee. If joint Chairs are appointed then a Deputy Chair shall not be appointed to that committee. The Chair role cannot be job-shared if there are joint Chairs.

Sheffield City Council Constitution:
Part 5 (Codes & Protocols) – Committee Chair Job-Share Protocol

As with Job-Share Chairs, only one joint Chair can chair a committee meeting and have the casting vote at any one time. The other attends the meeting as an ordinary committee member. The Chair will be identified at the start of the meeting.

Extract From The Sheffield City Council Constitution:
 Part 7A (Statutory and Proper Officers) – Section 4 (Proper Officers)

PROPOSED CHANGE OF PROPER OFFICER DESIGNATION

Counter Terrorism and Security Act 2015	Description	Proper Officer
Section 37	Officer designated to represent the authority on the statutory assessment and support panel (the “Channel Panel”).	Head of Community Safety and Safer Neighbourhood Services Service Manager – East Area (child protection) Fieldwork Team

Extracts From The Sheffield City Council Constitution:
Part 3 (Responsibility for Functions) - Part 3.3 (Matters Delegated to Committees
and Sub-Committees) - Section 3.3.1 (Policy Committees)

STRATEGY AND RESOURCES POLICY COMMITTEE

Finance Sub-Committee

The Finance Sub-Committee is established as a sub-committee of the Strategy and Resources Policy Committee. Its membership may include Councillors who are not members of, and it may be chaired by a Member who is not the Chair of, the Committee.

It may take decisions in respect of the following Finance and Property matters which are otherwise reserved to the Strategy and Resources Policy Committee, more particularly detailed below:

- a. Strategic financial overview
- b. Property decisions
- c. Accountable Body decisions
- d. Corporate Revenue and Capital monitoring and capital allocations

[Finance]

[Capital Programme]

Property

- (a) Acquisitions of Property where the consideration to be paid by the Council exceeds £250,000, but not including any acquisition of Property that the Council is obliged by Law to complete;
- (b) Disposals of Property, being of the freehold or leasehold but not including a mortgagee sale or disposal that Council must by law complete such as Right to Buy, lease enfranchisement or easements to certain service providers
 - Where the Council has been required by Law to publicly advertise the proposed Disposal (e.g. public open space); **and** one or more objections to the proposed Disposal has been received;
 - Which are not subject to a competitive process where the consideration to be received by the Council exceeds £300,000;
 - For less than the best consideration reasonably obtainable, ~~where the Chief Property Officer estimates that the difference between the consideration to be received by the Council and the best consideration reasonably obtainable does not exceed £150,000;~~
 - Which are clearly controversial;
 - Which for any statutory or other legal reason need to be decided by a committee, not an officer
 - Which involve the transfer of a freehold interest, the grant of a lease for a term of not less than twenty-five years or the assignment of a lease with a remaining term of not less than twenty-five years AND a relevant councillor or parish/town council has objected
- (c) Appropriation of surplus property that has not been identified for disposal by the Finance Sub-Committee or Strategy and Resources Committee to another purpose

Extracts From The Sheffield City Council Constitution:
Part 3 (Responsibility for Functions) - Part 3.3 (Matters Delegated to Committees
and Sub-Committees) - Section 3.3.5 (Other Committees)

AUDIT AND STANDARDS COMMITTEE

Terms of Reference

[Accounts]

[Audit Activity]

[Regulatory Framework and Risk Management]

Standards

[16]

- (17) To assist Councillors, Co-opted Members and Representatives to observe the [CouncillorMembers'](#) Code of Conduct.
- (18) To advise the Council on the adoption or revision of the [CouncillorMembers'](#) Code of Conduct and Protocols relating to Councillor and Officer behaviour.
- (19) To monitor the operation of the [CouncillorMembers'](#) Code of Conduct.
- (20) To advise, train or arrange to train Councillors, Co-opted Members and Representatives on matters relating to the [CouncillorMembers'](#) Code of Conduct.

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