



SHEFFIELD CITY COUNCIL Report to Council

Report of: Interim General Counsel (and Monitoring Officer)

Date: 17th May 2023

Subject: Changes to the Constitution

Author of Report: Jason Dietsch, Head of Democratic Services

Purpose of Report:

This report seeks approval for changes to be made to various elements of the Council's Constitution, to bring it up to date. The changes proposed fall into three categories:-

(a) to reflect the recommendations made by the Governance Committee following its six-month review of the operation of the Council's new governance arrangements (there is a separate item of business on the agenda for this annual meeting of the Council relating to that six-month review of the governance arrangements);

(b) to reflect the changes to the structure of the Council's (officer) Senior Leadership Team, under the Future Sheffield Programme, including incorporating the changes of designations from Executive Directors to Strategic Directors and any other changes to officer job titles and responsibilities; and

(c) recommendations made by the Council's Monitoring Officer for reasons of clarification/simplification, or otherwise to reflect recent changes.

Recommendations:

That the Council approves the changes to the various Parts of the Constitution, as outlined in sections 3.1 to 3.5 of the report and as set out in appendices 1 to 19.

Background Papers: NONE

Category of Report: OPEN

Statutory and Council Policy Checklist

Financial & Commercial Implications
NO Cleared by: Liz Gough
Legal Implications
YES Cleared by: Andrea Simpson
Equality of Opportunity Implications
YES Cleared by: Ed Sexton (as per the report to the Governance Committee)
Climate impact
NO
Tackling Health Inequalities Implications
NO
Human rights 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 This report seeks approval for changes to be made to various elements of the Council's Constitution, to bring it up to date. The changes proposed fall into three categories:-

(a) to reflect the recommendations made by the Governance Committee following its six-month review of the operation of the Council's new governance arrangements (there is a separate item of business on the agenda for this annual meeting of the Council relating to that six-month review of the governance arrangements);

(b) to reflect the changes to the structure of the Council's (officer) Senior Leadership Team, under the Future Sheffield Programme, including incorporating the changes of designations from Executive Directors to Strategic Directors and any other changes to officer job titles and responsibilities; and

(c) recommendations made by the Council's Monitoring Officer for reasons of clarification/simplification, or otherwise to reflect recent changes.

2. Background

2.1 An updated constitution for the City Council, reflecting the 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. In approving the Constitution, the Council authorised the Director of Legal and Governance to undertake any minor and consequential drafting changes as may be necessary as the new system is embedded.

2.2 The Council's 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.

2.3 The Council has a legal duty to keep its constitution up to date. 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.

- 2.4 In addition, however, the Director of Legal and Governance (now the General Counsel), in consultation with the Lord Mayor, has delegated authority to make any minor and consequential drafting changes to the Constitution.
- 2.5 Updates to the Constitution have subsequently been approved at the Council meetings held on 20th July, 14th September, 2nd November and 14th December 2022 and on 20th February, 2023, in accordance with this duty to keep the Constitution up to date.

3. Proposed Changes and Reasons

- 3.1 As mentioned in section 1 of this report, the latest proposed changes broadly fall into three categories. Further details of the changes are set out in sections 3.1 to 3.5 below.

3.1 Part 2 - Articles of the Constitution

- 3.1.1 Article 15 - Finance, Contracts & Legal Matters:
Minor amendments have been made to reflect changes to the Council's management structure and job titles.
- 3.1.2 Article 16 - Review & Revision of the Constitution:
Minor amendments have been made to reflect changes to the Council's management structure and job titles.
- 3.1.3 Article 17 – Suspension, Interpretation and Publication of the Constitution:
Amendments have been made to the Definitions in Art 17.04. "Strategic Director" replaces "Executive Director"; and for clarification any reference to a job title in the Constitution is deemed to include an Interim appointment to a role with responsibility for the time being for the function concerned.
- 3.1.4 The proposed changes are set out in Appendices 1, 2 and 3 to this report.

3.2 Part 3 - Responsibility For Functions

- 3.2.1 Part 3.3 – Matters Delegated to Committees:
Amendments have been made to reflect the Governance Committee's recommendations
- The general reservations to all Policy Committees include the power to set up Task & Finish groups for policy development;
 - The Education, Children and Families Policy Committee Terms of Reference reflect the role of the Chair as the designated Lead Member for Children's Services;
 - The Terms of Reference of the relevant committees ensure that Policy Committees developing regulatory policies must form

working groups with members of the relevant regulatory committee to inform the process.

Amendments have been made throughout to reflect changes to the Council's management structure and job titles.

Amendments have been made on the recommendation of the Monitoring Officer

- The wording of some of the general reservations to Policy Committees has been simplified;
- Finance Committee is established as a full committee;
- Parent Policy Committees, rather than Full Council, may establish specified sub-committees (and no others) - the sub-committees themselves are not changed;
- Decisions relating to Grants are reserved to Policy Committees rather than Finance Committee for consistency with Contracts decisions; The wording of some Policy Committee remits has been changed to make the functions clearer rather than to reflect Officer posts.

The Governance Committee may further review the remits of Policy Committees over the coming year and make such recommendations to Full Council as it thinks necessary.

3.2.2 Part 3.4 – Joint Arrangements:

Amendments have been made on the recommendation of the Monitoring Officer

- The name, but not the function, of the Emergency Planning joint committee has changed;
- The Joint Commissioning Committee is removed from the list;
- The South Yorkshire Integrated Care Partnership is added.

The Joint Commissioning Committee was a joint arrangement between the Council and the Sheffield Clinical Commissioning Group (CCG). The CCG no longer exists following the NHS reorganisation under the Health and Care Act 2022 and so the committee is disestablished.

It is a statutory requirement under the Local Government and Public Health Act 2007 (as amended by the Health and Care Act 2022) that an Integrated Care Board (which has replaced the CCG) and each responsible local authority whose area coincides with or falls wholly or partly within the board's area must establish a joint committee for the board's area (an "integrated care partnership"); Full Council must therefore agree to the establishment of the South Yorkshire Integrated Care Partnership.

3.2.3 Part 3.5 – Arrangements for the Delegation of Functions to Officers:

Amendments have been made throughout to reflect changes to the Council's management structure and job titles.

Amendments have been made on the recommendation of the Monitoring Officer

- Clarification of functions delegated to the Chief Legal Officer, Chef Finance Officer and Director of HR and Employee Engagement.

3.2.4 The proposed changes are set out in Appendices 4, 5 and 6 to this report.

3.3 Part 4 - Rules Of Procedure

3.3.1 Part 4A - Council Procedure Rules:

Amendments have been made to reflect the Governance Committee's recommendations, including recommendations relating to the Full Council Operation Review

- CPRs 10 and 12 are amended to set word limits for motions and amendments to motions;
- CPR 16 is amended to clarify the purpose of Members' Questions, the capacity in which a Committee Chair is expected to respond, and that questions to a Chair from a Member of the same Committee are not permitted at Full Council, but provision is made for questions to the Chair from a Committee Member at a meeting of that committee;
- CPR 18.3 is amended to confirm that voting in parts is permitted;
- CPR 25.2 is amended to reflect the changes to the right of Policy Committees to set up Task & Finish Groups noted above at in paragraph 3.2.1;
- CPR 33(d) is amended to permit substitutes at Strategy and Resources Policy Committee.

Amendments have been made throughout to reflect changes to the Council's management structure and job titles.

Amendments have been made on the recommendation of the Monitoring Officer

- In CPR 2 and throughout the defined terms "Body" and "Bodies" are used to replace repetitive lists of Council and Committee meetings;
- CPRs 5.2 and 25.3 confirm the appointment of sub-committees by committee, not Full Council, as noted above at in paragraph 3.2.1.

3.3.2 Part 4B - Contracts Standing Orders:

Minor amendments have been made to reflect changes to the Council's management structure and job titles.

3.3.3 Part 4C - Access to Information Procedure Rules:

Amendments have been made throughout to reflect changes to the Council's management structure and job titles.

Amendments have been made on the recommendation of the Monitoring Officer

- Additional wording for clarification of Members' rights of access to documents at paragraphs 15.2 and 15.3.

3.3.4 Part 4 - Financial Procedure Rules (Financial Regulations):

Has been completely reviewed and revised, including

- Amendments to reflect changes to the Council's management structure and job titles;
- Roles and responsibilities have been made clearer;
- Minor amendments have been made to ensure that the Regulations are internally consistent, as well as consistent with the rest of the Council's constitution;
- All jargon, acronyms and initialisms are defined in an appropriate level of detail.

3.3.5 Part 4F - Officer Employment Procedure Rules:

Amendments have been made throughout to reflect changes to the Council's management structure and job titles.

3.3.6 Part 4G – Area Committee Procedure Rules:

Minor amendments have been made to reflect changes to the Council's management structure and job titles.

3.3.7 The proposed changes are set out in Appendices 7, 8, 9, 10, 11 and 12 to this report. Appendix 10 does not show individual changes as the Financial Procedure Rules have been completely revised.

3.4 Part 5 - Codes & Protocols

3.4.1 Part 5B - Monitoring Officer Protocol:

Minor amendments have been made to reflect changes to the Council's management structure and job titles.

3.4.2 Part 5C - Officers' Code of Conduct (including Appendix - Politically Restricted Posts):

Minor amendments have been made to reflect changes to the Council's management structure and job titles.

3.4.3 Part 5D - Protocol for Member/Officer Relations:

Amendments have been made to reflect the Governance Committee's recommendations

- The way Members and Officers should work together on Committee briefings is clarified;
- Development of work programmes and what this involves is clarified;
- Sections 6 and 7 are amended to reflect the changes on Task & Finish Groups in Part 3.3 and the Council Procedure Rules noted above at in paragraphs 3.2.1 and 3.3.1.

Amendments have been made to reflect changes to the Council's management structure and job titles.

3.4.4 Part 5H – Chair Job Share Protocol:

Amendments have been made to reflect the Governance Committee's recommendations

- Clarification on attendance at briefings;
- To reflect that sub-committees may not have co-chairing arrangements.

3.4.5 Part 5I - Protocol for the Use of the Coat of Arms:

Minor amendments have been made to reflect changes to the Council's management structure and job titles.

3.4.6 The proposed changes are set out in Appendices 13, 14, 15, 16 and 17 to this report.

3.5 Part 7 - Statutory/Proper Officers and Management Structure

3.5.1 Part 7A – Statutory and Proper Officers:

Amendments have been made throughout to reflect changes to the Council's management structure and job titles.

3.5.2 Part 7B – Management Structure:

Has been completely revised to reflect changes to the Council's organisational structure and job titles, and has been reformatted for clarity.

3.5.3 The proposed changes are set out in Appendices 18 and 19 to this report. Appendix 19 does not show individual changes as the Management Structure has been completely revised.

4. Risk Analysis and Implications of the Recommendations

4.1 Legal Implications

4.1.1 Except where delegated by Council as indicated at paragraphs 2.1 and 2.4, variations to the Constitution may only be made by Full Council.

4.1.2 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.

4.1.3 Other legal implications are stated in the body of the report.

4.2 Financial and Commercial Implications

4.2.1 There are no financial or commercial implications.

4.3 Equality of Opportunity Implications

4.3.1 As a public sector organisation, the Council has a number of statutory duties with regards to equality. The Council must consciously think about its statutory duties, both in the way we behave as an employer and when we develop and review policy and set our budgets.

4.3.2 There are several changes proposed to be made to the Constitution that result from the six-month review of the operation of the Council's new governance arrangements, which was led by the Governance Committee. Equality, diversity and inclusion was a specific theme in the scope of the review. There is a separate item of business on the agenda for this annual meeting of the Council relating to that six-month review of the governance arrangements, and section 3.3 of the report on the review outlines the equality of opportunity implications associated with the Committee's recommendations.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 The Council could choose not to approve the various changes being recommended, but this would mean that the Constitution would not reflect the changes to the committee structure recommended by the Governance Committee, expected to be approved under a separate item of business on the agenda for this annual meeting of the Council. Nor would it reflect the revised officer designations and allocation of responsibilities introduced under the Future Sheffield Programme, nor the changes proposed by the Monitoring Officer for reasons of clarification/simplification, or otherwise to reflect recent changes. This would conflict with the Council's aim to keep its constitution under review and its duty to keep it up to date.

6. REASONS FOR RECOMMENDATIONS

6.1 The approval of the updates to the Council's Constitution will enable the Council to meet its duty to keep its Constitution up to date. This is especially relevant and important as the Council's new committee system form of governance develops over the coming months and early years ahead, and especially as some of the proposed updates relate directly to the operation of that system following its review by the Governance Committee.

David Hollis
Interim General Counsel (and Monitoring Officer)