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**Report of:** Chief Executive

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**Date:** 5 June 2013

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**Subject:** Changes to the Constitution

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**Author of Report:** Dave Ross – Democratic Services  
0114 273 5033

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**Summary:**

This report provides details of proposed changes to the Constitution.

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**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 1 - Summary and Explanation
- (b) Part 2 - Articles 4.01, 4.02, 7.04 and 9
- (c) Part 3 – Responsibility for Functions
- (d) Part 4 – Council Procedure Rules
- (e) Part 4 – Budget and Policy Framework Procedure Rules
- (f) Part 4 - Contracts Standing Orders
- (g) Part 4 - Scrutiny Procedure Rules
- (h) Part 4 – Financial Procedure Rules
- (i) Part 5 – Members' Code of Conduct; and
- (j) References to the Director of Legal Services and Director of Modern Governance' are amended to read Director of Legal and Governance.

**Background Papers:**

None

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**Category of Report:**      OPEN

## Statutory and Council Policy Checklist

<b>Financial implications</b>
NO
<b>Legal implications</b>
YES
<b>Equality of Opportunity implications</b>
NO
<b>Tackling Health Inequalities implications</b>
N/A
<b>Human rights implications</b>
N/A
<b>Environmental and Sustainability implications</b>
N/A
<b>Economic impact</b>
N/A
<b>Community safety implications</b>
N/A
<b>Human resources implications</b>
N/A
<b>Property implications</b>
N/A
<b>Area(s) affected</b>
None
<b>Relevant Cabinet Portfolio Leader</b>
Cllr Julie Dore
<b>Relevant Scrutiny Committee if decision called in</b>
Not applicable
<b>Is the item a matter which is reserved for approval by the City Council?</b>
Yes
<b>Press release</b>
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 February 2013.

2.2 In addition, the Director of Legal Services, in consultation with the Lord Mayor, has delegated authority to make any minor and consequential drafting changes to the Constitution. There have been no changes made under delegated authority since 2011.

**3. Proposed Changes and Reasons**

3.1 Following the latest review, a number of changes are proposed to the Constitution and areas of significant change have been discussed with the Corporate Members' Group. The majority of changes are relatively minor.

**3.2 Part 1 - Summary and Explanation**

3.2.1 A minor change is required to include a reference to the Health and Wellbeing Board that has been established. This is set out at Appendix A.

**3.3 Part 2 - Articles 4.01 and 4.02 (Policy Framework/Functions of Full Council)**

3.3.1 It is proposed to delete reference to Housing Land Transfer in Article 4.01 (c) and 4.02 (e) as it is no longer legally required to be approved by Full Council. This change is shown at Appendix B.

**3.4 Part 2 – Article 7.04 (The Executive)**

3.4.1 It is necessary to reflect in Article 7.04 that the sanction of suspension for Executive Members is no longer available as the previous Standards regime was abolished by the Localism Act 2011. This change is set out at Appendix C

**3.5 Part 2 – Article 9 and Part 3 – Responsibility for Functions (Health and Wellbeing Board)**

3.5.1 The Terms of Reference for the Health and Wellbeing Board were approved at its first meeting on 23 April 2013. This requires a minor change to Article 9 and the Terms of Reference also need to be included in section 3.3.5 of Part 3 – Responsibility for Functions. These changes are set out at Appendices D and E.

- 3.6 Part 3 – Responsibility for Functions (Planning and Highways Committee)
- 3.6.1 As the two Planning and Highways Committees have recently been merged into one, the terms of reference need to be amended accordingly. This also provides an appropriate opportunity to clarify the delegations to the single Committee and to introduce two additional propriety safeguards into the decision making process. The proposed changes are set out at Appendix F.
- 3.7 Part 4 – Council Procedure Rules (Petitions and Notices of Motions to Council)
- 3.7.1 Following discussion at the Corporate Members' Group, it is proposed to amend the Council Procedure Rules 13 relating to petitions by (a) specifying a time limit of up to five minutes for the appropriate Cabinet Portfolio holder's response to ordinary petitions presented at Council meetings and (b) setting out the guidelines for determining the number of petitions requiring a Council debate that should be debated at any one meeting and revised arrangements for conducting and concluding such debates, which includes providing the relevant Cabinet Member and then the relevant Shadow Cabinet Member the opportunity to make the first and second Member contributions to the debate, for up to five minutes and three minutes respectively. The amended Procedure Rules are set out at Appendix G.
- 3.7.2 It is also proposed to amend Procedure Rule 10.1 (Notices of Motion to Council) to bring it in line with Procedure Rule 16.1 (Members' Questions at Ordinary Meetings of the Council) to except the January meeting from the arrangements, thereby reflecting agreed practice that the January Council meetings does not include Notices of Motion or Members' questions on its agenda. The amended Procedure Rule is set out at Appendix H.
- 3.8 Part 4 – Budget and Policy Framework Procedure Rules and Council Procedure Rules
- 3.8.1 The Budget and Policy Framework Procedure Rules have been updated to provide greater clarity, reflect a number of the revisions to the Financial Procedure Rules and remove references to the Corporate Plan which is no longer included in the Policy Framework or a matter reserved for Council. The amendments are set out at Appendix I.
- 3.8.2 Council Procedure Rule 22 (e) also requires an amendment to be consistent with the Budget and Policy Framework Procedure Rules in terms of the officers that would determine whether a decision is considered contrary to the Policy Framework or contrary to or not wholly in accordance with the approved Budget. The amendment is set out at Appendix J.
- 3.9 Part 4 - Contracts Standing Orders
- 3.9.1 There have been minor drafting changes to make the existing Contracts Standing Orders (CSOs) easier to understand or to clarify the meaning without changing the original intention of the Orders. This includes:

- Clarifying that a waiver from CSO will be required to pay a contractor in advance.
- Clarifying that an agreement is a Contract for the purposes of CSOs if the Council buys goods, works or services, no matter what the agreement may be titled.
- Clarifying that genuine grant agreements do not fall under CSOs
- Clarifying that the requirement to notify Commercial Services of Contract awards applies to all contracts irrespective of value and procurement route.
- A change to require consent of the Director of Commercial Services to approve all extensions or variations of existing Contracts where the value of extension or variation exceeds a specified threshold.

3.9.2 The amended Contracts Standing Orders are attached at Appendix K.

#### 3.10 Part 4 - Scrutiny Procedure Rules

- 3.10.1 It is necessary to reflect the changes in the renumbering of Council Procedure Rule 30 to 31 in Scrutiny Procedure Rule 2 and Access to Information Rule 16 to 15 in Scrutiny Procedure Rule 17 (c).
- 3.10.2 An amendment is also required to Scrutiny Procedure Rule 4 (c) to clarify the number of parent governor representatives on the Scrutiny Committee/sub-group dealing with Education matters. The proposed amendments are set out at Appendix L.

#### 3.11 Part 4 – Revised Financial Procedure Rules

- 3.11.1 The Financial Regulations are an important part of the Council's financial governance arrangements. They provide the rules for the Council to follow so as to protect public money and give clarity for both Members and Officers regarding responsibilities for financial management.
- 3.11.2 The Regulations have been revised to ensure consistency with the Constitution and the Leader's Scheme of Delegation. The Financial Protocols have been updated and there have been a number of presentational changes. A summary of the proposed changes and a revised version of the Procedure Rules are attached at Appendix M.

#### 3.12 Part 5 – Members' Code of Conduct

- 3.12.1 As the Committee on Standards in Public Life has changed the descriptive wording of the seven principles of Public Life, it is proposed that this is reflected in the Members' Code of Conduct. The revised wording is attached at Appendix N.

#### 3.13 Director of Legal and Governance

- 3.13.1 There are references in the Constitution to the posts of Director of Legal Services and Director of Modern Governance. Arising from the senior management review, there is one post titled the Director of Legal and Governance and the Constitution needs to be amended accordingly.

**4. Legal Implications**

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

**5. Financial Implications**

- 5.1 There are no financial implications.

**6. Recommendations**

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

- (a) Part 1 - Summary and Explanation
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**Chief Executive**

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