



Report to Council

Report of: Chief Executive

Date: 5 September 2012

Subject: Changes to the Constitution

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

Summary:

This report provides details of proposed changes to the Constitution.

Recommendations:

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

- (i) Part 2 - Articles 6, 11 and 12
 - (ii) Part 3 - Responsibility for Functions
 - (iii) Part 4 - Council Procedure Rules
 - (iv) Part 4 - Scrutiny Procedure Rules
 - (v) Part 5 - Code of Conduct for Council Members and Officers in respect of Planning Matters
 - (vi) Part 5 - Guidance Note on General Procedures at Planning and Highways Committee meetings
 - (vii) Part 5 - Guidance Note to Chairs on Disruption of Planning and Highways Committees by Members of the Public
 - (viii) Part 5 - Monitoring Officer Protocol
 - (ix) Part 5 – Members’ Code of Conduct
 - (x) Part 7 - Management Structure and Proper Officers
- (b) gives authority to the Monitoring Officer or his/her Deputy to grant dispensations in accordance with Section 33 of the Localism Act 2011, as detailed in Section 3.9 of the report, and Article 12 of the Constitution be amended accordingly.
-

Background Papers:

Revised Constitution June and July 2012.

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 Scrutiny Committee if decision called in
Not applicable
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 June and July 2012.

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.

3. Proposed Changes and Reasons

3.1 Following the latest review and suggestions made by the majority group on the Council in relation to the operation of the Council meetings, a number of changes are proposed to the Constitution and have been discussed with the Council's Corporate Members' Group.

3.2 Part 2 - Article 6 Overview and Scrutiny and Part 4 – Scrutiny Procedure Rules

3.2.1 It is proposed to amend Article 6.03 (b) and Scrutiny Procedure Rule 9 to take account of legislative changes introduced by the Localism Act 2011. This requires provision enabling those Members who are not members of an Overview and Scrutiny Committee, to refer to that Committee any matter relevant to the Committee's functions which is not an excluded matter (an excluded matter is defined as a local crime and disorder matter within the meaning of Section 19 of the Police and Justice Act 2006). The proposed changes are set out at Appendices 1 and 2.

3.3 Part 2 - Article 11 Joint Arrangements

3.3.1 Changes are proposed to Article 11.02 to clarify the position about the creation of Joint Committees with other local authorities and the appointment of Elected Members to serve on them. They also reflect the provisions of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012. The proposed changes are set out at Appendix 3.

3.4 Part 2 - Article 12 and Part 5 - Monitoring Officer Protocol

3.4.1 Article 12.03 (Functions of the Monitoring Officer) and the Monitoring Officer Protocol and have been updated to reflect the changes to the Standards regime approved at the Council Meeting on 4 July 2012. These changes are set out at Appendices 4 and 5.

3.5 Part 3 – Responsibility for Functions

- 3.5.1 There have been minor changes/updates to legislation and the transfer of three licensing functions to the Licensing Service from Trading Standards and Highways. The Licensing Committee's Terms of Reference have been updated to include these functions and there have been some minor amendments to Part B of the Local Authority functions Table with regards to the Licensing and Registration Functions. The proposed changes are set out at Appendix 6.
- 3.5.2 A minor change is proposed to paragraph 3.5.1 of the Non-Executive Functions relating to agreeing the format (i.e. a document template) for the schemes of delegation of individual EMT members. This format is likely to be devised by the Monitoring Officer and her staff and there is no need for this also to be formally approved by the Chief Executive and the Chief Finance Officer. The proposed change is shown at Appendix 7.

3.6 Part 4 – Council Procedure Rules

- 3.6.1 The majority group on the Council are proposing to make changes to the termination time of Council meetings, the order of Motions, the time limit and duration of debates and Members' Questions. This affects the following Council Procedure Rules:
- 5.5 - Meetings of the Council and other Bodies (page 79)
 - 9.2 - Order of Council Business (page 82)
 - 10.2 (b) - Motions set out in agenda (page 83)
 - 11 (a) (xvi) – Motions which may be moved without notice at Council Meetings (page 85)
 - 16.1 - Members' Questions at Ordinary Meetings of the Council (page 91)
 - 17.6 - Time Limit for debate (page 93)
 - 17.12 - Motions which may be moved during debate (page 95)
- 3.6.2 The proposed changes to the Council Procedure Rules are set out at Appendix 8 and the proposed formula for the order in which Notices of Motion shall be listed on the Council Summons from September 2012 is set out at Appendix 9.
- 3.6.3 It is also proposed that there is an additional Council Procedure Rule on Personal Explanation (17.15) to provide a definition in the same way that there is for Point of Order (at 17.14) and for Right of Reply (at 17.11), each being occasions when a Member may speak again (17.7). The proposed wording is set out below:

“17.15 Personal Explanation

A Member may, at any time, request to address the meeting to provide a personal explanation where he/she has made a mis-statement that is being quoted by a later speaker, or where another Member has misquoted or misunderstood what the Member had said, during the present debate. The Lord Mayor will decide whether or not to permit the request and the Lord Mayor's ruling shall not be challenged. The Member shall confine his/her personal explanation to correcting the misunderstanding.”

3.7 Part 4 – Scrutiny Procedure Rules

3.7.1 Scrutiny Procedure Rule 17 (1) (a) relates to Call-in and Urgency and Removal from the Call-in Process (“fast track”). The proposed change is consequential to the previous amendment to Rule 17 (1) (b) which recognised that urgency may be created by the effect of delay on individuals or organisations outside the Council. The amended wording is set out at Appendix 10.

3.8 Part 5 - Planning Code of Conduct and Guidance Notes

3.8.1 The following Planning Code of Conduct and the Guidance Notes have been updated to take account of the legislative changes introduced by the Localism Act 2011, the revised Member’s Code of Conduct and to reflect current practice:-

- Code of Conduct for Council Members and Officers in respect of Planning Matters
- Guidance Note on General Procedures at Planning and Highways Committee meetings
- Guidance Note to Chairs on Disruption of Planning and Highways Committees by Members of the Public.

3.8.2 A summary of the changes is attached at Appendix 11. The revised versions of the Code and Guidance Notes are attached at Appendices 12 to 14.

3.9 Part 5 – Members’ Code of Conduct/Declaration of Interests

3.9.1 The guidance that was issued to Members on declaring interests indicated that, in exceptional circumstances, a dispensation can be granted to participate in relevant business, even if a Member has a Disclosable Pecuniary Interest.

3.9.2 Approval is sought for the Monitoring Officer or his/her Deputy to be given authority to grant such dispensations in accordance with Section 33 of the Localism Act 2011. Further information on the process for applying for and granting a dispensation will be set out in revised guidance on declaring interests that will be circulated to Members and the additional wording is shown at Appendix 15.

3.9.3 A minor change is also proposed to the Members’ Code of Conduct by the addition of the following words at the end of section 2.2.2:

“(Note: A request for a dispensation to participate in the business of the authority where a Member has a Disclosable Pecuniary Interest must be submitted in writing to the Monitoring Officer in accordance with the guidance issued to Members on Declarations of Interests.)”

3.10 Part 7 – Management Structure and Proper Officers

3.10.1 Following the retirement of the Deputy Chief Executive, three minor changes are proposed to the Management Structure and Proper Officer designations. The proposed changes are set out at Appendix 16.

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 (a) considers adopting the changes to the following Parts of the Constitution, as set out in the report and appendices:-

- (i) Part 2 - Articles 6, 11 and 12
- (ii) Part 3 – Responsibility for Functions
- (iii) Part 4 – Council Procedure Rules
- (iv) Part 4 – Scrutiny Procedure Rules
- (v) Part 5 - Code of Conduct for Council Members and Officers in respect of Planning Matters
- (vi) Part 5 - Guidance Note on General Procedures at Planning and Highways Committee meetings
- (vii) Part 5 - Guidance Note to Chairs on Disruption of Planning and Highways Committees by Members of the Public
- (viii) Part 5 - Monitoring Officer Protocol
- (ix) Part 5 – Members’ Code of Conduct
- (x) Part 7 - Management Structure and Proper Officers
- (b) gives authority to the Monitoring Officer or his/her Deputy to grant dispensations in accordance with Section 33 of the Localism Act 2011, as detailed in Section 3.9 of the report, and Article 12 of the Constitution be amended accordingly.

Chief Executive

This page is intentionally left blank