

Public Document Pack

10. **Recommendations from Cabinet Member for Policing and Equalities 21 March 2022 - Proposed Changes to the Constitution**



This page is intentionally left blank

The Advisory Panel recommended that the Cabinet Member recommend to Council that in respect of Part 2N - Coventry Shareholder Committee Terms of Reference there be:

- (a) An increase from the current maximum of 5 elected Members to a maximum of 10 elected Members at paragraph 2.1: Composition (NB minimum of 3 is to remain the same);

The Recommendation was made on the basis that increasing the number of elected Members to a maximum of ten will allow for more flexibility in the event of absence, greater knowledge sharing and more diversity amongst the Committee.

Following the meeting of the Advisory Panel the following additional proposal has been identified:

- (b) Additional wording to be inserted to permit Key Decisions in relation to charitable holdings held by the Council on trust for a charity to be made by the Shareholder Committee as trustee, with decisions below the Key Decision threshold delegated to Directors, Heads of Service and Officers in the areas concerned.

This Recommendation was made on the basis that the Council is trustee for a number of charitable holdings. For example the Council is a trustee of various land owned by charities. At present there is no delegation in the Constitution for Key Decisions or other decisions that do not meet the threshold for Key Decisions in respect of these holdings. Annex A to the report details proposed wording in respect of the Constitutional Updates to delegate Key Decisions in relation to charitable holdings to the Shareholder Committee as trustee, with decisions below the Key Decision threshold delegated to Directors, Heads of Service and Officers in the areas concerned.

2. Revisions to the Functions of Scrutiny, paragraph 6: Education Representatives: Part 2D

The Advisory Panel recommended that the Cabinet Member recommend to Council that in respect of Part 2D - Functions of Scrutiny, paragraph 6: Education Representatives the introduction of:

- (a) a maximum four year term of office and minimum of two year term of office (which will be applicable to all Education Representatives);
- (b) removal of the requirement for a parent governor representative from both a maintained primary and secondary school in the City (instead introducing a requirement for a generic parent governor who could technically be from any maintained school) in keeping with the legislation in this area and to reflect the fact that Coventry now has no maintained secondary schools.

The Parent Governor Representatives (England) Regulations 2001 set out detailed provisions for Parent Governor Representatives (PGRs) on Scrutiny Board, including that they have voting rights, their term of office must be a minimum of 2 years and a maximum of 4 years and the Council must appoint at least 2 and a maximum of 5 PGRs. The maximum and minimum terms are also applicable to the other education representatives and the insertion of this wording will ensure that the terms are lawful and people in the positions know what is expected of them.

Where a PGR ceases to be a Parent Governor because their term of office at the school has expired, they are not disqualified from continuing as a PGR but this would only be for the term of their appointment as a PGR.

Part 2D of the Constitution deals with Scrutiny. In particular, paragraph 6 deals with education representatives and the Constitution divides PGRs into primary and secondary representatives. There is also nothing in the Constitution about what the term of office is which is required under the legislation. There are now no maintained secondary schools left in the city and the number of maintained primary schools is also greatly reduced. The most up-to-date version of this legislation has been checked and it is confirmed that the position remains the same and reference is only made to maintained schools but there is no stipulation that there must be a separate primary and secondary school PGR.

3. An update to the Management Structure: Part 6

The Advisory Panel recommended that the Cabinet Member recommend to Council that:

In respect of Part 6 – Management Structure that:

- (a) Changes to staff and job titles need to be reflected in Constitution as well as the fact that the Management Team are now known as the Strategic Leadership Team;
- (b) The changes to staff and job titles have also subsequently resulted in changes to delegations as these have been redistributed and should also be reflected throughout the Scheme of Delegation

4. Revisions to General Principles, Paragraph 6: Government Consultation: Part 2A

The Advisory Panel recommended that the Cabinet Member recommend to Council that in respect of Part 2A - General Principles, paragraph 6: Government Consultation Papers:

- (a) The introduction of wording to permit Government Consultation Papers to be primarily considered by the relevant Cabinet Member as opposed to Council by default, unless the Government Consultation Paper is high profile or of a particular matter of substantial public importance.

The Constitution currently stipulates that unless the Government Consultation Paper is of a technical nature, all responses will be taken to Council by default. Allowance is made for where the timescale does not permit this and then allows for the matter to be decided by Cabinet.

Practice has shown that deadlines are often relatively short on Government Consultation Papers. Although Council meet approximately once a month, resources are needed to be pulled together to answer the Government Consultation Paper and a consultation is required with the relevant Cabinet Member. It can be challenging to meet the deadline for the response and take the matter to Council as well. It is considered that oversight with the Cabinet Member is generally adequate. The Shadow Cabinet Member is also consulted and will give the cross-party position on the matter. Where the Government Consultation is high profile or of a particular matter of substantial public importance this could still go to Council and will be drafted into the updated wording.

5. Revisions to Taxi Licensing Delegations, paragraph 6.15: Part 2M

The Advisory Panel recommended that the Cabinet Member recommend to Council that in respect of Part 2M -Taxi Licensing Delegations, paragraph 6.15:

- (a) An addition be made to the Constitution to the Taxi Licensing delegations to allow Taxi Licensing officers to take enforcement action under the “Smoke Free Legislation” at Part 2M - Scheme of Functions Delegated to Employees, paragraph 6.15 Hackney Carriage and Private Hire Licensing Scheme of Delegation, as a new paragraph 1.

An officer in Taxi Licensing recently caught a persistent offender smoking in their vehicle for the third time after two fixed penalty notices (FPNs) were issued by Environmental Crime. Under the Constitution and in the Scheme of Delegation under Part 2M, para 6.10 – Director of Streetscene and Regulatory Services Delegations, and then under Environmental Crime at sub para 28(a), Heads of Service are able act in relation to “enforcement of the Smoke Free legislation”. Therefore the ability to issue FPNs, prosecute and take any other enforcement action in relation to smoking under the Health Act 2006 (and other related legislation) sits with officers in Environmental Crime. Taxi Licensing are unable to either issue FPNs or take this forward to prosecution, despite the fact that the Taxi Licensing officer in this case had the background knowledge to the offence.

The proposed amendment would only be intended for taxi related smoking violations similar in nature to the one described above and to ensure that that this authorisation is used correctly, prosecution would only be authorised on the written approval / consent of the City Solicitor.

The proposed changes to the Constitution were detailed in the Annexes to the report.

At the meeting, the Cabinet Member noted that the Education and Children's Services Scrutiny Board (2) had considered the proposed changes in relation to co-opted Members at their meeting on 17 March, 2002 and had supported the proposals.

RESOLVED that the Cabinet Member for Policing and Equalities recommends to Council the approval of Recommendations (1) to (5) below, with immediate effect; and that Council authorises the Director of Law and Governance to make any necessary amendments to the Constitution.

- (1) With regard to the Coventry Shareholder Committee Terms of Reference:**
 - (a) The current maximum of 5 elected Members be increased to a maximum of 10 elected Members; and**
 - (b) Approve additional wording to permit Key Decisions in relation to charitable holdings held by the Council on trust for a charity to be made by the Shareholder Committee as trustee, with decisions below the Key Decision threshold delegated to Directors, Heads of Service and Officers in the areas concerned.**

- (2) With regard to the Functions of Scrutiny in respect of Parent Governor Representatives:**
 - (a) The requirement for a Parent Governor Representative from both a maintained primary and secondary school in the City be removed (instead introducing a requirement for a generic parent governor who could technically be from any maintained school); and**
 - (b) A maximum four year term of office and minimum of two year term of office for Parent Governor Representatives be inserted into the Constitution.**

- (3) The Management Structure in Part 6 and the Scheme Of Delegations in Part 2 to be updated to reflect changes to staff and job titles.**

- (4) The change of wording to permit Government Consultation Papers to be primarily considered by the relevant Cabinet Member as opposed to Council by default, unless the Government Consultation Paper is high profile or of a particular matter of substantial public importance.**

- (5) An addition to the Taxi Licensing delegations to allow Taxi Licensing officers to take enforcement action under the "Smoke Free Legislation" with the written permission of the City Solicitor**

This page is intentionally left blank