
Annual Council Meeting

16 May 2013

Name of Cabinet Member:

Cabinet Member (Community Safety and Equalities) Councillor Phil Townshend

Director Approving Submission of the report:

Director of Finance and Legal Services

Ward(s) affected: All

Title: Changes to the Constitution, including Members' Allowances, and those consequential changes arising from the Annual Meeting decisions and appointments

Is this a key decision?

No

Executive Summary:

This report is to address the consequential changes that will be required to the Constitution as a result of decisions made at its Annual Meeting on 16 May 2013. The Constitution also needs to be amended to reflect changes at the Annual Meeting in connection with the creation of new Deputy Cabinet Member posts and changes to the title and terms of reference of Audit (now Audit and Procurement) Committee. A future report on changes needed to the Members' Allowances Scheme, will be brought to a future Council meeting.

Recommendations:

- (1) That the changes to the Constitution set out in paragraph 2 of the report be approved; and
- (2) That the Assistant Director (Legal Services) & Monitoring Officer be given delegated authority to make any necessary amendments to the Constitution arising from the decisions taken at the Annual Meeting, both those identified in this report and otherwise.

List of Appendices included:

None

Other useful background papers:

None

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Report title: Changes to the Constitution, including Members' Allowances, and those consequential changes arising from the Annual Meeting decisions and appointments

1. Context

1.1 At the Council's Annual Meeting a number of changes to the governance arrangements of the Council have been approved which require consequential changes to the Constitution. These include:

- The creation of a new Audit & Procurement Committee (previously Audit Committee) and the terms of reference require revision;
- cabinet portfolios have been revised;
- new posts of deputy cabinet members have been created
- the number and remit of Scrutiny Boards have been amended and the post of Deputy Chair of Scrutiny removed

Details of the proposed changes to the Constitution are set out in Section 2.

1.2 In all cases the proposed changes should take effect immediately. All new text is shown underlined and in italics.

2. Proposed Changes

2.1 Change to Name and Terms of Reference of Audit and Procurement Committee

2.1.1. Various references in the Constitution to Audit Committee need to be amended to read "Audit and Procurement Committee." These occur in:

- 2.8.1.1, 2.9.1 and 2.9.2. (Articles of the Constitution)
- 3.7 (Director of Customer and Workforce Services' delegated powers in connection with the City Council Code of Corporate Governance);
- 4.1 and 4.1.1.12(Council Procedure Rules)
- 4.5.26.1(vii) (Scrutiny Procedure Rules)
- Annex to 5.2 (9.1 Whistleblowing Policy)
- 5.4.4.9.4 (Report Writing Protocol); and
- 6.13.(Members Allowances Scheme)

2.1.2 The terms of reference of Audit and Procurement Committee

It is proposed that the following text should be inserted into the Committee's terms of reference immediately after the last bullet point under "Accounts" in paragraph 2.9.2.10:

Procurement

To maintain an overview of the procurement decision making process and where appropriate make recommendations to the Cabinet Member Strategic Finance and Resources, Cabinet or Council as appropriate

2.2 Revised Cabinet Portfolios

2.2.1 The changes to the portfolios of Cabinet Members and changes in appointments to these posts as set out in the Leader's report at item 7 on the agenda of the Annual Meeting mean that the existing portfolios and cabinet members' details in the table at the end of Part 3.2 of the Constitution need to be deleted and replaced with the new appointments.

2.2.2 In addition, the final bullet point at paragraph 3.2.4.1 (power of the Leader to make recommendations on changes to the Constitution) should be deleted as the responsibility is to transfer to the Deputy Leader. Therefore, the following wording should be inserted immediately after paragraph 3.2.7 in Part 3 in order to reflect the change in responsibility for changes to the Constitution.

3.2.8 Changes to the Constitution

The Deputy Leader shall have power to make recommendations to the Council on changes to the Constitution, including changes to the Scheme of Delegation, as set out in paragraphs 2.14.3.1 and 2.14.4.1 of Part 2 of this Constitution

2.2.3 In Part Three of the Constitution (Scheme of Delegation to Employees), it will be necessary to amend delegations to reflect changes in Cabinet Member portfolios where an officer may make a decision in consultation with the holder of a named cabinet portfolio.

2.3 Appointment of Deputy Cabinet Members

The decision to appoint Deputy Cabinet Members requires some changes to the Constitution to reflect their new role and responsibilities. The following changes are recommended. All new text is shown in italics and underlined.

2.3.1 Part One: Paragraph 1.4

In the second paragraph of paragraph 1.4 add the text shown.

The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader, a Deputy Leader and, in accordance with legislation, up to eight other Cabinet Members appointed by the Leader. The Leader may also appoint Deputy Cabinet Members to assist Cabinet Members in their roles.

2.3.2 Part Two: Article 6: Scrutiny

In paragraph 2.6.7.1., add the following text to allow Scrutiny Boards to question Deputy Cabinet Members as well as Cabinet Members.

2.6.7.1 Policy development and review

Scrutiny Boards may:

- assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues
- conduct research, community and other consultation in the analysis of policy issues and possible options
- consider and implement mechanisms to encourage and enhance community participation in the development of policy options
- question members of the Cabinet, Deputy Cabinet Members and/or other Committees/Other Bodies and Chief Officers about their views on issues and proposals affecting the area
- liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

In paragraph 2.6.7.2, add the following text:

2.6.7.2 Scrutiny

Scrutiny Boards may:

- review and scrutinise the decisions made by and performance of the Cabinet and/or other Committees/Forums and Council officers both in relation to individual decisions and over time
- review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas

- question members of the Cabinet, Deputy Cabinet Members and/or other Committees/Other Bodies and Council Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects

2.3.3. Part Two: Article 7: The Cabinet

Two additions to Article 7 need to be made as follows:

In paragraph 2.7.2., add the following text:

2.7.2 Form and Constitution

The Cabinet will consist of the Leader and Deputy Leader together with at least 1, but not more than 8 other Councillors appointed to the Cabinet by the Leader.

The Cabinet cannot include the Lord Mayor or Deputy Lord Mayor and there will be no substitutes or co-optees for Cabinet members. The Leader may appoint Deputy Cabinet Members who will have the roles and responsibilities set out in 2.7.8 below.

At the end of Article 7, add the following additional paragraph:

2.7.8 Deputy Cabinet Member Role and Responsibilities

Deputy Cabinet Members have the following role and responsibilities:

2.7.8.1 To support the Cabinet Member in carrying out his/her responsibilities.

2.7.8.2 To deputise for the Cabinet Member at meetings including Cabinet, and any other relevant meetings or external events.

2.7.8.3 To attend Scrutiny Board or Scrutiny Co-ordination Committee meetings as required, answering questions and speaking on behalf of the Cabinet Member.

2.7.8.4 To maintain awareness of policy developments, and advise the Cabinet Member of key developments.

2.7.8.5 To bring to the attention of the Cabinet Member issues of concern to members who are not part of the Executive.

2.7.8.6 To undertake research and any other tasks under the direction of the Cabinet Member.

2.7.8.7 To liaise with relevant officers to be up to date with service developments and ensure the Cabinet Member is informed of key issues, and to be

consulted in the absence of the Cabinet Member where this is required in the Scheme of Delegation.

Note: Deputy Cabinet Members may attend and speak at meetings of the Cabinet, but cannot vote and are not members of the Executive.

2.3.4 Part Three: 3.2: Functions of Cabinet

The following additional text should be added to paragraph 3.2.5.4 and a new paragraph 3.2.5.7 inserted in the section concerning the allocation of cabinet portfolios:

3.2.5.4 The Leader will allocate Executive Functions amongst the Cabinet as he/she sees fit and may from time to time alter those arrangements. The allocation of Executive Functions and any alterations to such arrangements and to arrangements for the appointment of Deputy Cabinet Members will take effect upon the date that written notification is received by the Director of Customer and Workforce Services. The Leader shall report upon the allocation of Executive Functions within the Cabinet and the appointment of Deputy Cabinet Members or any changes to such arrangements at the next available Full Council meeting.

3.2.5.7 The Leader may appoint Deputy Cabinet Members as non-executive Members, to advise and support Cabinet Members in carrying out their role. Deputy Cabinet Members may deputise for the relevant Cabinet Member in his/her absence as set out in the Cabinet Procedure Rules. Deputy Cabinet Members may not discharge any function given to the Cabinet Member and are not members of the Executive.

2.3.5 Part Three: 3.7: Delegations to Employees

Deputy Cabinet Members may be consulted by officers, in the absence of the relevant Cabinet Member, where this is required by the Scheme of Delegation. The Scheme will need to be amended to reflect this.

2.3.6 Part Four: 4.1. Council Procedure Rules

Paragraph 4.1.1.8 should be amended as follows:

4.1.1.8 receive the report of the Leader of the Council on the appointment of the Deputy Leader, ~~and the composition of the Cabinet~~ and the appointment of Deputy Cabinet Members and the allocation of Executive Functions within the Cabinet;

2.3.7 Part Four: 4.4: Cabinet Procedure Rules

Cabinet Procedure Rules need to be amended to include a new paragraph 4.4.13 to summarise the rights of Deputy Cabinet Members to attend Cabinet.

4.4.1.3 A Deputy Cabinet Member may be nominated by a Cabinet Member to attend a meeting of the Cabinet if he/she is not able to attend. Deputy Cabinet Members may attend and speak at meetings of the Cabinet, but cannot vote and are not members of the Executive.

2.3.8 Part Four: 4.5: Scrutiny Procedure Rules

Paragraph 4.5.21 should be amended to reflect the fact that Scrutiny Boards may ask Deputy Cabinet Members to attend their meetings (see paragraph 2.3.2 above):

4.5.21 Members and Employees Giving Account

Any Scrutiny Board may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions within the Portfolio allocated to the Scrutiny Board. As well as reviewing documentation, in fulfilling the Scrutiny role a Scrutiny Board may require any member of the Cabinet, Deputy Cabinet Members, the Chief Executive and/or any senior employee to attend before it to explain in relation to matters within their remit:-

2.4 Amendments arising from Changes to Scrutiny

2.4.1 Part Three: 3.4: Functions of Scrutiny

Paragraph 3.4.7 sets out the current Scrutiny remits. This will need to be amended to reflect the change in number and remits of Scrutiny Boards set out in items 10 and 11 on the agenda of the Annual Meeting.

2.4.2 Deputy Scrutiny Board Chairs

Item 10 on the agenda of the Annual Meeting abolished the position of deputy chairs of Scrutiny Boards. References to deputy chairs throughout the Constitution will need to be deleted.

In addition, the Deputy Chair of Scrutiny Co-ordination Committee will have default powers to chair a Scrutiny Board in the event that the Board Chair is unavailable. Amendments are needed to Part Four (4.5: Scrutiny Procedure Rules) of the Constitution to reflect this new role as follows:

4.5.7.2 Additional meetings will be convened by the Director of Customer and Workforce Services after consultation with the Chair of the relevant Scrutiny Board or Scrutiny Co-ordination Committee or, in her/his absence, the Deputy Chair of Scrutiny Co-ordination Committee.

4.5.7.3 The Director of Customer and Workforce Services, with the agreement of the Chair, or in her/his absence the Deputy Chair of Scrutiny Co-ordination Committee, may alter, cancel/postpone or bring forward a meeting.

4.5.7.4 If at least 3 members of a Scrutiny Board or of the Scrutiny Co-ordination Committee notify the Director of Customer and Workforce Services in writing that they wish a meeting to be called, the Director of Customer and Workforce Services will do so as soon as possible, and in any event within 15 working days, the date and time being determined in consultation with the relevant Chair (or in her/his absence the Deputy Chair of Scrutiny Co-ordination Committee).

4.5.10 Chairing Meetings of Scrutiny Boards, Scrutiny Co-ordination Committee and Sub-Groups

4.5.10.1 Chairs ~~and Deputy Chairs~~ of the Scrutiny Boards and the Chair and Deputy Chair of the Scrutiny Co-ordination Committee will be appointed by the Council from amongst the Members appointed to those bodies. In the event that the Chair of a Scrutiny Board is unable to chair a meeting of the Board for whatever reason, that meeting shall be chaired by the Deputy Chair of the Scrutiny Co-ordination Committee provided that this is by prior agreement with the Deputy Chair and notice of the change is given to the Director of Customer and Workforce Services at least one hour in advance of the meeting. In the event that neither the Chair of the Scrutiny Board nor the Deputy Chair of the Scrutiny Co-ordination Committee is able to chair the meeting, the remaining members of the Board will elect a member from among them to chair the meeting on that occasion.

2.5. Amendments to the Members' Allowances Scheme

Changes needed to the Members' Allowances Scheme as a result of the decisions, appointments and items presented at today's Annual Meeting will be the subject of a separate report to a future meeting of the Council.

2.6 Consequential Amendments arising from other decisions taken at the Annual Meeting

Approval is sought to make any other necessary amendments to the Constitution arising from other decisions taken at, appointments made or otherwise resulting from the Annual Meeting. This includes, but is not limited to, amendments referred to, but not set out in detail, in paragraphs 2.2.1, 2.2.3, 2.3.5, 2.4.1, and 2.4.2.

The changes should take effect immediately.

3. Results of consultation undertaken

3.1 The amendments arise from decisions that will be taken at the Annual Meeting and so no consultation has been undertaken.

4. Timetable for implementing this decision

4.1 The proposed changes would, if approved, take immediate effect.

5. Comments from Director of Finance and Legal Services

5.1 Financial implications

There is no additional expenditure directly arising from the items on today's agenda. However, proposals relating to the new special responsibilities will be the subject of a separate report to a future meeting of the Council.

5.2 Legal implications

The Constitution will reflect the decisions taken and items presented at today's Annual Meeting and will meet legal requirements.

6. Other implications

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

The Constitution sets out the governance arrangements of the Council and it is important for the good governance of the Council that these reflect the decisions that will be taken at the Annual Meeting.

6.2 How is risk being managed?

No risk identified.

6.3 What is the impact on the organisation?

Compliance with the Council's Constitution enables the Council to exercise all its powers and duties in accordance with the law and the requirements of its Constitution.

6.4 Equalities / EIA

There are no equality issues arising from the proposed amendments.

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None

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Democratic Services: Helen Abraham	Assistant Director (Democratic Services)	Customer and Workforce Services	15.5.2013	15.5.2013
Members: Councillor Philip Townshend	Cabinet Member Community Safety and Equalities		14.5.2013	15.5.2013

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