
Scrutiny Co-ordination Committee

7 August 2013

Name of Cabinet Member:

Community Safety and Equalities: Cllr Townshend

Officer Approving Submission of the report:

Assistant Director Legal Services and Monitoring Officer

Ward(s) affected:

All

Title: Changes to the Constitution: Recommendations of the Constitutional Advisory Panel.

Is this a key decision?

No

Executive Summary:

The Constitutional Advisory Panel has considered proposed changes to the Constitution and feedback from members on those proposals. The Panel has asked the Scrutiny Co-ordination Committee to consider the recommendations that the Panel will make to the Cabinet Member (Community Safety and Equalities) and give its views on them.

Any comments will go forward with the comments of the Constitutional Advisory Panel to the Cabinet Member (Communities and Equalities) who will make his recommendations on the changes to a future meeting of full Council.

This report includes, as the Appendix, a copy of the report that was considered by the Constitutional Advisory Panel (the CAP report). The CAP report has been

updated to show, in **bold**, the recommendations that the Panel has made on the points that it was asked to consider. **It is these recommendations upon which the Committee is asked to give its views.** The remainder of the CAP Report, including its three appendices, are otherwise unchanged from that presented to the Panel.

Recommendations:

The Committee is asked to give its views to the Cabinet Member (Community Safety and Equalities) on Recommendations (1) to (16) in the Appendix to this report and any other action considered appropriate.

List of Appendices included:

Appendix: Report to Constitutional Advisory Panel dated 8 July 2013

Other useful background papers:

The Revised Constitution

Has it been or will it be considered by Scrutiny?

Yes: Scrutiny Co-ordination Committee 7 August 2013

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

Constitutional Advisory Panel 8 July 2013

Will this report go to Council?

No, but a further report with all recommended changes to the Constitution will go to a future meeting of Council.

Report title: Changes to the Constitution: Recommendations of the Constitutional Advisory Panel

1. Context

- 1.1. At its meeting on 6 February 2013, the Constitutional Advisory Panel considered a briefing report on proposed changes to the Constitution. The Panel decided that the Assistant Director (Legal Services) should offer all councillors the opportunity to attend workshops on the proposed amendments and report back to the Panel.
- 1.2 Three workshops were held and a report summarising the feedback received from those meetings was presented to the Advisory Panel on 8 July. Members were asked to consider the outcome of the meetings and make recommendations to the Cabinet Member (Community Safety and Equalities) on changes to the Constitution or any other appropriate action. The Panel resolved to consult the Scrutiny Co-ordination Committee on its recommendations and to review the proposed officer delegations under Part 2b of the proposed new constitution.
- 1.3 Attached as the Appendix to this report is the original report to the Advisory Panel (the CAP report). At the end of each section of the CAP report, the Panel's recommendations are shown in **bold** and are numbered from 1 to 16.

The Committee is asked to consider these recommendations and to give its views on them to the Cabinet Member (Community Safety and Equalities)

- 1.4 The CAP report itself also includes three appendices:

- a Guide to the Changes to the Constitution, which sets out in more detail the main changes as originally proposed, (Appendix 1 to the CAP report);
- a Table showing the current and proposed Financial Thresholds (Appendix 2 to the CAP report). The Table is as it was presented to the Panel and so should be read in conjunction with Recommendations 13 and 14 ; and
- a diagram illustrating the proposed process for procurement matters (Appendix 3 to the CAP report).

These are also attached to the CAP report for completeness and to enable members to see where the main changes to the Constitution are being suggested and the reasoning behind them.

2. Advisory Panel's Recommendations

- 2.1 The Committee is asked to consider the recommendations made by Constitutional Advisory Panel so that its comments may be considered by the Cabinet Member (Communities and Equalities) alongside the Panel's recommendations.

2.2 Any comments will go forward with the comments of the Constitutional Advisory Panel to the Cabinet Member (Communities and Equalities) who will make his recommendations on the changes to a future meeting of full Council.

2.3 In addition, following the Constitutional Advisory Panel Meeting there has been some further discussion around the decision making process for procurement. The Committee will be updated at the meeting should any new recommendations be suggested.

3. Results of consultation undertaken

3.1 The appendix to this report summarises the results of consultations undertaken with councillors.

4. Timetable for implementing this decision

4.1 The amendments need to take effect as soon as they can be approved by Council.

5. Comments from Director of Finance and Legal Services

5.1 Financial implications

The financial implications relate to the proposed changes to the financial thresholds within which decisions can be made by officers, members and Committees.

5.2 Legal implications

The Council needs to make the changes to its Constitution to ensure that it reflects current statutory requirements and operational practice.

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 changes in legislation and are fit for purpose.

6.2 How is risk being managed?

Having a Constitution that reflects changes in legislation and in the Council's structures and operating practices will ensure that the Council meets its legal obligations and will also provide better and more accurate information for the public, stakeholders, councillors and employees on how the Council is governed.

6.3 What is the impact on the organisation?

To put in place appropriate governance arrangements that reflect current statutory requirements and operational practice.

6.4 Equalities / EIA

None

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None

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Names of approvers for submission: (Officers and Elected Members)				
Christine Forde	Assistant Director Legal Services	Finance and Legal	12.7.13	13.7.13

Appendix

Report to the Constitutional Advisory Panel

Report title: Changes to the Constitution: Feedback from Member Workshops.

1. Context

- 1.1. At its meeting on 6 February, the Advisory Panel considered a briefing report on proposed changes to the Constitution. The Panel decided that the Assistant Director (Legal Services) should offer all councillors the opportunity to attend workshops on the proposed amendments and report back to the Panel.
- 1.2 This report summarises the feedback received from those meetings. The Panel should bear in mind that the workshops focussed on particular points of interest to them and did not conduct a line by line review of the Constitution.
- 1.3 Members are asked to consider the outcome of the meetings and make recommendations to the Cabinet Member (Community Safety and Equalities) on changes to the Constitution. In particular, the Panel is asked to consider the feedback from all the workshops and to inform the Monitoring Officer how they wish to proceed. Action points for the Panel are set out in bold at the end of each section.
- 1.4 A Guide to the Changes to the Constitution, which sets out in more detail the main changes proposed, has been included as an appendix to this report as has a Table showing the current and proposed financial thresholds.

2. Member Workshops: Summary of Feedback

- 2.1 Three workshops were held on 25 March, 3 April and 10 May. The second workshop also reconvened on 8 May. A total of 18 councillors attended the three sessions. The results of feedback obtained from the workshops are set out below. Where appropriate, the paragraph numbers for the particular section of the Constitution referred to are given in square brackets.

2.2 Part Two: Terms of Reference and Scheme of Delegation to Employees

2.2.1 Definition of Key Decision [2.1.3.2]

The first group thought that the proposed increase on the financial threshold for a key decision from £500,000 to £1m was reasonable. The other two groups did not comment specifically on the Key Decision threshold. However, there was much discussion on the financial thresholds for decisions on procurement matters which will ultimately have an impact on the Key Decision threshold.

Recommendation (1): The Key Decision threshold should be increased to £1million.

2.2.2 Government Consultations [2.1.6.1]

The current draft Constitution proposes that government consultations will be dealt with as follows:

"Responses to Government Consultation papers will be considered by Scrutiny Council (where such consideration is practicable within the timescale of the relevant consultation). Where the timescale of the relevant consultation does not permit consideration by Council, responses shall be considered by Cabinet or by the relevant Committee. Where the timescale of the relevant consultation does not permit consideration by Council, Cabinet or the relevant Committee, responses shall be considered by The Leader, the appropriate Cabinet Member and the appropriate Director, unless the Chief Executive determines that they relate to a "technical" issue."

All three groups were concerned at the proposal to reduce or remove Scrutiny input into responses to government consultations. However, all members recognised that due to much shorter timescales being provided for responses, there needed to be a review of the current process in order to be in a position to meet consultation deadlines.

A number of suggestions were made as to how Scrutiny could maintain an involvement in responding to consultations, such as:

- Where there is insufficient time to consult with Scrutiny, the relevant Board should be informed, in any event, of each consultation and a report made to that Board on the Council's response to the consultation
- Consultation papers could be sent to both the relevant Scrutiny Chair and the Cabinet Member. The Cabinet Member should decide, in consultation with the Scrutiny Chair, whether the matter is one that should go to Scrutiny, time permitting.

Officers would also appreciate the Panel's view on whether the separate provision for "technical consultations" should be retained. The current requirement for technical consultations is as follows:-

"Where the Chief Executive determines that a consultation paper relates to a "technical" issue, all Group Leaders on the Council shall be consulted. If any Group Leader disagrees, the Consultation paper will go through the normal process for consultations. If Group Leaders agree the paper is "technical", responses to them will be delegated to the appropriate Director, in consultation with the relevant Cabinet Member, Shadow Cabinet Member and other Group Leaders. Where practicable within the timescale of the relevant consultation, details will then be sent to all Councillors informing them of the proposed response to the consultation, asking if they wish to make any comments. The appropriate Director and relevant Cabinet Member and Shadow Cabinet Member will

then consider any such documents received before submitting the response."

Recommendation (2): Changes to the method for responding to government consultations approved subject to the Cabinet Member having the authority, at their discretion, to refer a consultation to the relevant Scrutiny Board

Recommendation (3): No change recommended to existing procedure on "technical" consultations.

2.2.3 Leader exercising Functions of Absent Cabinet Member [2.2.8]

This proposal is to give the Leader the power to exercise the functions delegated to any Cabinet Member in their absence or otherwise.

One group suggested that this power should be exercised in consultation with the Deputy Leader or appropriate Cabinet Member where possible.

However, it should be noted that there may not be another appropriate Cabinet Member, particularly where the function being exercised is not the subject of a joint report to Cabinet Members.

Recommendation (4): The power of the Leader to exercise functions of Cabinet Members should be in consultation with the Deputy Leader.

2.2.4 Policy Framework [2.3.2]

The current Policy Framework within the Constitution contains a number of policies that are either obsolete or no longer required by law to be included in the Framework. The revised Constitution proposes that the Framework should be reduced to the minimum number of policies that the law requires to be in the Framework i.e.

- Sustainable Community Strategy
- Annual Library Plan
- Plans and alterations that together comprise the Coventry Development Plan
- Children and Young People's Plan
- Local Transport Plan
- Licensing Authority Policy Statement under the Gambling Act 2005
- Youth Justice Plan
- Crime and Disorder Reduction Strategy

However, in addition to the above statutory requirement, the following policies also appear but are not required to be included in the Framework:

- Council Plan
- Housing Strategy
- Older People Strategy
- Waste management strategy

Consultation was sought as to whether the Policy Framework should be limited to those required by legislation only. One group felt that the Policy Framework should be reduced to the statutory minimum; another that the slightly expanded framework as drafted was appropriate; the third expressed no view.

Whether or not a particular policy is included in the Policy Framework is important because any amendments to that policy require both Cabinet and full Council approval. Otherwise, key policies outside the Policy Framework will be expected to be determined by Cabinet or Cabinet Members as appropriate.

Recommendation (5): The Policy Framework should be limited to the statutory minimum policies.

2.2.5 Scrutiny Sub-Groups [2.4.12.1]

The terms of reference of Scrutiny Boards includes powers for Boards to appoint sub groups (or task and finish groups). The proposed wording is:

"2.4.12.1 Scrutiny Boards may choose to create a sub-group to investigate or review a particular topic. Those sub-groups will reflect the political composition of the Council. Any Councillor, except a member of the Cabinet, may be invited by Scrutiny Board to be a member of a sub-group appointed by that Scrutiny Board, whether or not s/he is a member of that Scrutiny Board.

2.4.12.2 Chairs of Sub-Groups will be appointed by the Scrutiny Board which established the Sub-Group from amongst the members of that Sub-Group, unless the appointment of a chair is delegated by the Scrutiny Board to the Sub-Group. The Chair of any Joint Sub Group will be appointed by the Scrutiny Co-ordination Committee

2.4.12.3 A sub-group will not have any decision making authority but will make recommendations to the Scrutiny Board that created it."

One group thought that the draft should make it clear that Scrutiny Boards can co-opt non-members on to any sub-groups.

In addition, the current Constitution requires that any sub group should be politically balanced (paragraph 2.4.12.1 above). However, there is no legal requirement for sub-groups to be politically balanced because they are not formal committees or sub-committees of the Council

Recommendation (6): The text should be explicit that Scrutiny Boards are able to co-opt non elected members onto a sub group.

Recommendation (7): The requirement for political balance on sub-groups should be removed.

2.2.6 Licensing and Planning Terms of Reference [2.6 and 2.7] and Procedure Rules [3.10 and 3.11]

The draft Constitution proposes that the terms of reference of both committees should be deleted and replaced with a more compact statement which refers back to the regulations which prescribe their functions. In addition it was proposed that the procedure rules for both committees should be removed from and sit outside of the Constitution and that the committee be given a power to adopt and revise the rules going forward as appropriate. The purpose of these changes is to aid with the streamlining of the Constitution and to enable the regulatory committees to have autonomy over their requisite procedural and operational rules.

All three groups agreed with the suggestions for streamlining the terms of reference of the committees, subject to consulting with the Chairs of both committees. There was general agreement that the procedure rules should be removed from the Constitution and the Committees given the power to amend and approve their own rules. If however, the Rules remain in the Constitution, the Sex Establishments Hearing Rules need to be re-titled as Sexual Entertainment Venues Hearing Rules.

Officers have consulted with the Chairs of both committees who are in support of the recommendations.

Recommendation (8): The terms of reference of Licensing and Regulatory Committee and Planning Committee should be streamlined subject to the support of the Chair of Planning Committee.

Recommendation (9): The Licensing and Planning procedure rules should be from the Constitution (but sit alongside the Constitution) subject to the support of the Chair of Planning Committee.

2.2.7 Scheme of Delegation to Employees [2.10]

One group felt that Cabinet Members and relevant Scrutiny Boards should be given an opportunity to consider proposed officer delegations and give their views to the CAP.

Delegations to officers can cover many subject areas which would make consultation with the relevant Cabinet Members and Scrutiny Boards difficult. Should the Panel consider this to be of assistance, it may be more appropriate to consider asking the Scrutiny Co-ordination Committee to give its views on the proposed delegations.

Recommendation (10): Scrutiny Co-ordination Committee should be consulted on the proposed scheme of delegation for officers.

2.3 Part Three: Procedure Rules

2.3.1 *Honorary Alderman Protocol [3.1.3.4]*

The protocol currently sits as an appendix to Part 8 of the Constitution (Procedural Matters). As it is proposed to remove Part 8 and incorporate its contents into other parts of the Constitution, it was proposed either to move the protocol to become an appendix to the Council Procedure Rules or remove it from the Constitution but that it would sit along side it. The latter option has the advantage that it helps to streamline the Constitution and enables the Cabinet Member (Community Safety and Equalities) to make future changes to the protocol more expeditiously.

One councillor thought the Protocol should be removed from the Constitution; the others had no strong views either way.

Recommendation (11): The Honorary Alderman protocol should remain as an annex to the Council Procedure Rules.

2.3.2 *Items on Scrutiny Agenda [3.5.4.1]*

This rule was amended to reflect legislation which gives members who are not members of an overview and scrutiny committee the right to ask for an item to be placed on the committee's agenda. Certain matters are excluded from this right i.e.:

- Any matters relating to a planning or licensing decision
- Any matters where a person has a right of review or appeal
- Any matters which are vexatious, discriminatory or not reasonable to be included in the agenda or to be discussed at the meeting
- A local crime and disorder matter.

The third bullet point above enables the Chairs of Scrutiny to provide some direction over what should be included on their agendas. The right to have an item placed on the agenda does not mean that the Scrutiny Board is obliged to discuss the matter in detail or pursue it further. One group thought that where a Scrutiny Board decided not to pursue a matter placed on the agenda by a member under this provision, the Scrutiny Chair should give reasons why not, and these should be minuted.

Recommendation (12): The reasons for not pursuing a matter should be given to the member who asked for the item to be placed on the scrutiny board's agenda and minuted.

2.3.3 *Financial Procedure Rules [3.6]*

In considering the comments of councillors on the Financial Procedure rules, members of the Panel may find it helpful to refer to the table at Appendix 2 as councillors in all three groups had a number of observations on the proposed changes to the thresholds for financial approval. These were as follows:

2.3.3.1 General Observations on Virements

- (a) Aligning thresholds for capital and revenue expenditure, while easier to understand, did not recognise the fact that the same financial limits were a much greater proportion of the capital budget than of the revenue budget.
- (b) The bandwidths for lower thresholds should be shortened; and consideration given to the widening of bandwidths for higher values. The point was made that where bandwidths are used, the range of the bandwidth generally increases as the value increases.

2.3.3.2 Capital Programme Virements

- (a) There were mixed views on the proposed thresholds for financial approval, particularly around the role of the Cabinet Member in both capital and revenue budget virements. Some felt that having the Cabinet Member involved in approvals would allow more time for in depth scrutiny of capital schemes than was currently the case at Cabinet; others felt that there was a danger that decisions would be over-scrutinised.
- (b) There was concern that the new proposals would allow virements between cabinet portfolios without agreement from Cabinet: this would change the focus of the approved budget. Budgets needed to be transparent but the proposed arrangement was opaque and the reasoning behind it was not clear.

2.3.3.3 Revenue Budget Virements

- (a) Members felt that the proposal to move approval of revenue budget virements from the Cabinet Member (s) to Corporate Management Board would mean that significant levels of budget could be moved without member involvement. It was suggested that the appropriate Cabinet Member should be consulted as the sums involved could represent an entire service.
- (b) The original limits (with virements between £250,000 and £500,000 being approved by the Cabinet Member) should be reinstated.
- (c) Comments on revenue budget virements were as 2.3.3.2(b) above

2.3.3.4 Grant Income and Expenditure

- (a) With regard to grant income, in order to determine who is to make the decision, the table needs to be more specific about what "if time allows" means. Members needed to be reassured that matters will be agreed after proper consideration at an appropriate level.
- (b) One group was happy with the proposals

2.3.3.5 Debt Write-off

- (a) There were concerns about the level of debt that could be written off by officers. Relatively small amounts of debt might have political implications. Debts should normally only be written off if it was uneconomic to collect them.
- (b) There should be a small committee with an advisory role in scrutinising proposed write-offs.
- (c) One group was happy with the proposals

Recommendation (13): The financial thresholds be as follows:

- (a) Capital Programme Virements: approved as proposed;**
- (b) Revenue Budget Virements: virements above £0.25m and up to £0.5m to be approved by Cabinet Member; otherwise approved as proposed;**
- (c) Grant Income: for income above £0.5m up to £2.5m, to Cabinet, if time permits; if not, to the relevant Cabinet Member (or the Leader in their absence) in consultation with the relevant Scrutiny Chair; otherwise approved as proposed;**
- (d) Grant Expenditure: up to £0.05m- the Director of Finance and Legal Services in consultation with the relevant Cabinet Member ; over £0.05m to £0.25m- Cabinet Member in consultation with Chair of Audit and Procurement Committee; otherwise approved as proposed; and**
- (e) Debt Write Off: approved as proposed.**

2.3.4 Rules for Contract [Procurement] [3.7]

The Panel is referred to Appendices 2 and 3 to aid discussion.

There was a significant number of comments on the proposals to change the financial thresholds for procurement only. Members did not comment on any other aspect of the Rules for Contract. Those comments are summarised below.

- (a) There was a general view that the budget setting process defined what Members agreed the Council would be spending its money on, the Rules for Contract simply described the process that should be followed to define how value for money would be delivered when spending the money.
- (b) Consideration should be given to the way the financial limits had been set as this could lead to anomalies in which schemes were approved by Cabinet. For example, a 12 month scheme with a total value of just over £1m would be approved by Cabinet but a scheme that was worth much more in total (because of the length of the contract) would not go to Cabinet if the annual value was just under £1m.

- (c) There should be a mechanism to ensure that if the Council received an in-year windfall (for example, new grant monies), members should be able to decide where the money would be spent. It was acknowledged that, unless the grant monies were ring fenced for specific use, this was covered under the proposed financial approval limits for grant income. There was a strong feeling that any new money should be applied to services which had been cut, wherever possible and terms of grant funding permitted that course of action.
- (d) Councillors asked that their concern at the lack of member involvement, including lack of Scrutiny input, in the procurement process be reported back. Consideration should be given to having a committee/sub-committee of councillors to take an oversight of procurement matters before decisions were made and report any concerns to the appropriate Cabinet Member.
- (e) It was felt that some member oversight on procurement decisions at both Procurement Board and Panel level would be helpful. The Panel is reminded that since the workshops took place, the terms of reference of Audit Committee have been extended to include procurement.

Recommendation (14): The procurement thresholds be as follows:

- (a) Up to £0.05m: approved as proposed;**
- (b) Above £0.05m up to £1m: Procurement Panel in consultation with relevant Cabinet Member and Chair of Audit and Procurement Committee;**
- (c) Above £1m (total contract value): Procurement Board in consultation with relevant Cabinet Member and Chair of Audit and Procurement Committee; and**
- (d) Above £1m (per annum): approved as proposed**

NB The thresholds are subject to review.

2.4 Part Four: Codes and Protocols

2.4.1 *Code of Conduct for Employees [4.2]*

The Council's Whistleblowing Policy currently forms an annex to the Code of Conduct for Employees. It was suggested that this could be removed provided that it was made available to both the public and employees elsewhere on the Council's website. Again the purpose was to aid with the streamlining of the Constitution.

One group felt that the Whistleblowing Policy should remain as an annex to the Code of Conduct because it should have high visibility. The others made no comment on this.

Recommendation (15): The Whistleblowing Policy should be removed from the Constitution but made available elsewhere on the Council's website

2.4.2 Code of Good Practice on Planning [4.3]

The Code of Good Practice sets out the principles that govern the behaviour of councillors and officers when dealing with planning applications. The Annex to the Code is a leaflet aimed at the public and explaining their rights to speak at Planning Committee. It was suggested that this be removed from the Code and made available elsewhere on the Council's website as it had no direct link to the Code. The Chair of Planning Committee supports this proposal.

One group recommended that the Annex to the Code should be removed.

Recommendation (16): The Annex to the Code of Good Practice on Planning should be removed from the Constitution but made available elsewhere on the Council's website, subject to the support of the Chair of Planning Committee.

3. Results of consultation undertaken

3.1 The report summarises the results of consultations undertaken with councillors.

4. Timetable for implementing this decision

4.1 The amendments need to take effect as soon as they can be approved by Council.

5. Comments from Director of Finance and Legal Services

5.1 Financial implications

The financial implications relate to the proposed changes to the financial thresholds within which decisions can be made by officers, members and Committees.

5.2 Legal implications

The Council needs to make the changes to its Constitution to ensure that it reflects current statutory requirements and operational practice.

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 changes in legislation and are fit for purpose.

6.2 How is risk being managed?

Having a Constitution that reflects changes in legislation and in the Council's structures and operating practices will ensure that the Council meets its legal obligations and will also provide better and more accurate information for the public, stakeholders, councillors and employees on how the Council is governed.

6.3 What is the impact on the organisation?

To put in place appropriate governance arrangements that reflect current statutory requirements and operational practice.

6.4 Equalities / EIA

None

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None

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Mick Burn	Head of Procurement and Commissioning	Finance and Legal	21.6.13	21.6.13
Michael Rennie	Lead Accountant (Business Partnership, Corporate Finance)	Finance and Legal	21.6.13	21.6.13

Appendix 1

GUIDE TO CHANGES TO THE CONSTITUTION

Introduction

The Constitutional Advisory Panel requested that all members have the opportunity to comment on the proposals before they are considered by Panel in the municipal year 2013-14. Comments received will be collated and presented to the Panel.

The reasons for making the following proposals for member consideration include:

- Based on the Model Constitution in 2000
- Some areas of law has changed and constantly evolves
- To streamline the content where possible, remove repetition and enable changes in the law
- To reflect working practices
- Clarity around responsibilities and levels of decision making
- Improvement to consistency of contents and transparency
- A changing Council – commissioning and procurement
- To improve governance and robustness against legal challenge
-

SUMMARY OF PROPOSED CHANGES

Examples of Quick Wins - proposed changes include:

- Combining Summary and Explanation (Previously Part 1) and the Articles (previously Part 2) into new Part 1. Where text has come from an Article this is indicated in a comment box to the right of the entry
- Move the contents of Procedural Matters (Part 8) into more appropriate areas of the Constitution.
- Terms of Reference of all committees, including scrutiny boards, have been moved to one place Part 2
- Legislative references have been removed where possible or otherwise updated
- To reflect changes – e.g.:
 - References to Ward Forums changed to Neighbourhood Forums

- Reference has been made to the Police and Crime Panel that has been established as a joint committee
- Reference is now included to the right to petition on excessive council tax rises
- New functions have been added at paragraph 2.3.1 to deal with powers relating to coroners and elections

Proposed key changes are:

PART TWO: SCHEME OF DELEGATION

(Decision Making and Responsibility for Functions)

Section 2.1:

- Key Decisions:
 - The definition of a key decision is amended to include decisions by officers and exclude non-executive decisions to reflect recent regulations and to cover where Cabinet has made delegations to officers
 - At 2.1.3.2, it is proposed to increase the threshold of a Key Decision from over £500k to over £1 million to account for rise in inflation over 13 years and to align with the proposed procurement regime.
- Consultation Responses
 At 2.1.6, paragraphs have been inserted from Part 8 dealing with government consultation papers. Proposal is to speed up the process due to larger volume of consultations coming through and shorter time frame within which to consider them. In short:- (Page 19)
 1. Full council (if time), if not
 2. Cabinet (if time), if not
 3. Leader together with appropriate Cabinet Member and appropriate Director

Therefore Scrutiny will no longer have an automatic role in responding to government consultations but will not prohibit Cabinet requiring input from Scrutiny where time permits (Paragraph 2.4.1.4 to be deleted)

2.1.6.2 remains unchanged (where a consultation is considered 'technical')

- 2.1.8 - A new table showing “local choice functions” is included. This is because regulations provide that there is discretion over which body or person can make some decisions

Section 2.2: Functions of Cabinet

- Functions of Cabinet has been moved to this section.
- An amendment to reflect changes in the consideration of government consultations at paragraph 2.1.6;
- A new provision to make it clear that Cabinet exercises all executive functions not delegated to Cabinet Members or employees (paragraph 2.2.6.(u);
- Including the power of the leader to exercise executive decision making powers in specified circumstances for e.g. to take executive decisions that have not been allocated or where a Cabinet Member is absent (paragraph 2.2.7).

Section 2.3: Functions of Council

- The Policy Framework is amended to include those plans policies and strategies that are required by law together with the Housing and Homelessness Strategy. (paragraph 2.3.2)

Statutory plans are highlighted in Part 2a. Additional plans currently included are Council Plan, Waste Management Strategy and Older Persons Strategy.

Section 2.4: Terms of Reference of Scrutiny Boards

- At paragraph 2.4.1.5:
 - (a) the reference to Scrutiny Boards' terms of reference being closely allied to Cabinet Portfolios is deleted as this is no longer the case
 - (b) Reference is made to the other statutory scrutiny functions.
 - (c) Otherwise detailed remits of Scrutiny Boards are removed to allow easier amendment at annual council
- Various provisions relating to Scrutiny Sub Groups have been moved into one section at paragraph 2.4.12 but are otherwise unchanged *e.g. paragraph 2.4.12.1 was originally 4.5.4.2 (in current Constitution); paragraph 2.4.9.2. becomes 2.4.12.2.*

Section 2.6: Terms of Reference of Licensing and Regulatory Committee and Section 2.7: Terms of Reference of Planning Committee

The table setting out the terms of reference for both committees is deleted and replaced with a more compact statement of terms of reference which refer back to

the Functions and Responsibility Regulations. These Regulations stipulate what decisions should be made by these regulatory committees.

It is proposed to remove the Licensing Procedure Rules (Section 3.11) and the Planning Procedure Rules (Section 3.10) from the Constitution and give the Committees the power approve and amend their own procedures. Power to do this is therefore given to the L&R Committee at paragraph 2.6.1(f) and Planning Committee at paragraph 2.7.1(f). The Rules will be located alongside the Constitution on the intranet and internet. The advantage of this proposal will be the ability to make any required amendments in a more responsive way. Section 3.10) & 3.11 refers re: rules

Section 2.8: Functions of Appeals Committee, Appointments Panel, Independent Remuneration Committee and Audit Committee

- The terms of reference for the Appeals Panel have been clarified so that the text is easier to follow. Otherwise no other changes.

PART TWO: SCHEME OF FUNCTIONS DELEGATED TO EMPLOYEES (PREVIOUSLY PART THREE)

Sections 2.10.1 to 2.10.4

- Now includes Consultants in Public Health in the definition of Assistant Directors.
- At paragraph 2.10.1.11 the inclusion of secondary legislation or amendments in an employee's delegation is widened to include any subsequent legislation that is relevant to their service area.
- Further delegation of powers should be evidenced in writing.
- The functions of the Section 151 Officer at paragraph 2.10.3.10 have been revised to reflect current CIPFA guidance on these functions.

It is proposed that a separate, definitive list of proper officer functions should be compiled and approved by Council and made publicly available outside the Constitution.

Section 2.10.5: General Delegations

- An expanded set of general delegations for chief officers and simplified delegations to specified employees provided within approved budget and policy framework
- General powers to manage the day to day operational matters and structure of each service and employment matters (some amendments to HR yet to be made and clarifying some officer titles).
- General delegations in respect of contracts and procurement have been consolidated and updated to reflect the proposed new procurement arrangements within the Council.
- Revised powers and duties relating to financial management matters have been drafted at paragraph 2.10.5.4.

Section 2.10.6.2: Delegations to Director of Customer and Workforce Services

- Powers in respect of functions relating to the Council's health and safety obligations as an employer and occupational health have been introduced at paragraphs 2.10.6.2.14 and 2.10.6.2.15.

Section 2.10.6.4: Delegations to Director of Children Learning and Young People

- Delegations to the Director have been revised with specific delegations being grouped under two broad themed headings of "Children and Young People" and "Schools and Learning". Existing delegations have been pulled together under these headings and sub headings with additional delegations to deal with gaps in the existing Scheme.

Section 2.10.6.5: Delegations to Director of Community Services

- The delegations to the Director have been redrafted to set out the broad scope of functions of each division of the Directorate with overall responsibility for each service being delegated to generic Assistant Directors. Existing delegations have been pulled together under these headings with additional delegations to deal with gaps in the existing Scheme
- The long lists of legislative references in the existing Scheme has been removed and replaced by these more general powers to carry out the functions of the Directorate.

Section 2.10.6.6.: Delegations to Director of Finance and Legal Services

Obsolete legislative references have been removed along with delegated powers that are no longer relevant.

- The power to award all contracts for the supply of works, goods and services and other procurement functions are deleted as these are now covered by the proposed Contracts and Procurement delegations in the General Delegations and by the proposed revised Rules for Contracts.
- Clarity added to delegation for legal proceedings to cover any eventuality (paragraph 2.10.6.6.5.5).
- The Director's Finance and Audit functions (paragraph 2.10.6.6.1) have been revised to reflect his responsibilities as Section 151 officer and CIPFA guidelines.

Section 2.10.6.7: Delegations to Council Solicitor

- Provisions with regard to the review of the Constitution which were in Article 14 are now at 2.10.3.9. in a shortened format

Section 2.10.6.8: Delegations to Director of City Services and Development

- The delegations to the Director have been redrafted to set out the broad scope of functions of each division of the Directorate with overall responsibility for each service being delegated to the appropriate Assistant Director. Existing delegations have been pulled together under these headings with additional delegations to deal with gaps in the existing Scheme.
- The extensive lists of legislative powers in the existing Constitution have been removed.
- The Assistant Director (Property Asset Management) and Assistant Director (City Centre and Development Services) are given delegated authority to exchange land for and of equal value (paragraph 2.10.6.8.6.1)., to accept revised tender terms (paragraph 2.10.6.8.6.2). and a general power to appropriate land (paragraph 2.10.6.8.6.1). [Note to Carol – are these entirely new delegations or are they being moved from one part of the constitution to another?]

PART THREE: RULES OF PROCEDURE (PREVIOUSLY PART FOUR)

Section 3.1: Council Procedure Rules

- A new paragraph 3.1.3.4 has been added to refer to the Protocol for the Enrolment of Honorary Aldermen which is proposed to be attached as an appendix to the Rules. *Alternatively, the Protocol can be removed from the Constitution so that it sits alongside.*

Section 3.3: Budget and Policy Framework Procedure Rules

- Section 3.3.7 (Virements) has been removed and transferred into the Finance Procedure Rules.

Section 3.4: Cabinet Procedure Rules

- Paragraph 3.4.8.3 is amended to be consistent with the Access to Information Procedure Rules.
- The Leader taking a decision in the absence of a Cabinet Member is included to reflect the inclusion of this power in new Part 2 (paragraph 3.4.8.5).

Section 3.5: Scrutiny Procedure Rules

- Terms of reference of scrutiny boards deleted; now in Part 2.
- Paragraph 3.5.4.1 has been amended to reflect the legal requirement that members who are not members of a Scrutiny Board have the right to ask for an item to be placed on the committee's agenda, subject to the exclusion of certain prescribed matters.
- The power of boards to pay advisors, assessors or witnesses is subject to payments being within the available budget (paragraph 3.5.7.3).
- At paragraphs 3.5.12.3 and 3.5.24 text is included from the deleted Part 7.
- In the rules on limitations on call-in, the first sentence is removed, as it is redundant. (3.5.18.1), and the exemption for officer-delegated decisions now does not apply to key decisions.

Section 3.6: Finance Procedure Rules

- These Rules have been extensively revised to reflect current practices and guidance.
- The financial responsibilities of the Council, Cabinet, Cabinet members and officers are set out including thresholds for the approval of specific transactions. (paragraph 3.6.2).
- Detailed responsibilities of the Director of Finance and Legal Services are set out (paragraph 3.6.3) and the framework of delegated authority (paragraph 3.6.4).

- A table setting out financial approval limits will be attached as an appendix to the rules.

Section 3. 7: Rules for Contracts

These Rules have been amended by the insertion of new sections to reflect the proposed new procurement procedures including:

- The insertion into the Definitions section of definitions of "Panels", "People Panel", "Place Panel" and "Resource Panel"
- Updating of the Quick Reference Guide Tables
- The insertion of a new section to cover the work of the procurement panels and procurement board (paragraph 3.7.9)

Section 3.10: Planning Committee Procedure Rules and Section 3.11: Licensing and Regulatory Committee Procedure and Hearing Rules

It is proposed to remove these from (but sit alongside) the Constitution in line with the proposed together with power given to the Committees to adopt and revise the procedure rules (see 2.6 and 2.7 above).

PART FOUR: CODES AND PROTOCOLS (PREVIOUSLY PART 5)

Section 4.3: Code of Conduct for Employees

- New sections are added on the use of social media and regarding the wearing of identity badges (paragraphs 4.2.12 and 4.2.17)
- It is proposed that that the Whistleblowing Policy is referred to but removed from the Constitution (but sit alongside it). The Policy will be located alongside the Constitution on the internet and intranet.

Section 4.4: Code of Good Planning Practice for Members and Employees Dealing with Planning Matters

- Annex: Advisory Leaflet on Planning Applications and Public Speaking Guide is removed; but be made available alongside the Constitution.

Protocol for Member/Employee Relations and Report Writing Protocol

- Both deleted.

Other

- Form for Foreign Travel and Conference Attendance protocol proposed to be deleted – not required to be located within the constitution (current paragraph 5.6.20)

PART SIX: MANAGEMENT STRUCTURE (PREVIOUSLY PART SEVEN)

- Will be updated to reflect new Director of Public Health.

PART SEVEN: PROCEDURAL MATTERS (PREVIOUSLY PART 8)

- Deleted and its provisions incorporated elsewhere in the Constitution.

Appendix 2

MAJOR CHANGES SHADED

Financial Approval Thresholds: Current v Proposed

Setting a Balanced Budget		
	Current	Proposed
Any Value	Council	Council
New Capital Schemes without Funding Identified		

	Current	Proposed
Any Value	Council	Council
Capital Programme Virements* and New Schemes with Funding Identified		
	Current	Proposed
Up to £0.25m	Capital Working Group, reporting to Management Board	Joint relevant Service Directors and Director of FLS
Above £0.25m up to £0.5m	Management Board	Corporate Management Board
Above £0.5m up to £1.0m	Cabinet	Cabinet Portfolio Holder(s)
Above £1.0m up to £1.5m	Cabinet	Cabinet
Above £1.5m up to £2.5m	Cabinet	Council
Above £2.5m	Council	Council
Revenue Budget Virements*		
	Current	Proposed
Up to £0.25m	Relevant Service Director and Director of FLS (re: employee budgets)	Joint relevant Service Directors and Director of FLS
Above £0.25m up to £0.5m	Cabinet Member(s)	Corporate Management Board
Above £0.5m up to £1.0m	Cabinet	Cabinet Portfolio Holder(s)
Above £1.0m up to £1.5m	Council	Cabinet
Above £1.5m	Council	Council

Technical Adjustments**		
	Current	Proposed
Any Value	Officers	Director of FLS
Grant Income (prior to signing grant agreement)		
	Current	Proposed
Up to £0.5m	Not included	Joint relevant Service Directors and Director of FLS
Above £0.5m up to £2.5m	Not included	Cabinet Portfolio Holder (if no time to go to Cabinet)
Above £0.5m up to £2.5m	Not included	Cabinet (if time allows)
Above £2.5m	Not included	Council
Grant Expenditure (Approval to grant awards to an external body)		
	Current	Proposed
Up to £0.05m	Not included	Joint relevant Service Directors and Director of FLS
Above £0.05m up to £0.25m	Not included	Cabinet Portfolio Holder(s)
Above £0.25m up to £1.5m	Not included	Cabinet
Above £1.5m	Not included	Council
Debt Write Off		
	Current	Proposed
Up to £0.005m	Service Manager	Director of FLS or nominee
Above £0.005m up to £0.015m	Assistant Director	Director of FLS or nominee
Above £0.015m up to £0.1m	Director of FLS	Director of FLS or nominee
Above £0.1m	Cabinet Member	Cabinet Member

Procurement (Approval to Procure)		
	Current	Proposed
Up to £0.05m	Not included	Director
Above £0.05m up to £1m	Not included	Procurement Panel
Above £1m (total contract value)	Not included	Procurement Board
Above £1m (per annum)	Not included	Cabinet

Notes:

***Virement** is the planned transfer of a budget for use for a different purpose to that originally intended

**** Technical adjustments** have no overall impact on the City Council's "bottom line", and meet the following requirements:

- are internal transfers between different areas of the City Council;
- involve no new cash transactions with third parties; and
- do not increase or decrease the budget over which a budget holder has spending discretion

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PROCUREMENT GOVERNANCE

