

Name of meeting: Annual Council  
 Date: 4<sup>th</sup> June 2014

Title of report: PROPOSED CHANGES TO THE COUNCIL'S CONSTITUTION

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not Applicable
Is it in the <a href="#">Council's Forward Plan</a> ?	Not Applicable
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	Not Applicable
Date signed off by <u>Director</u> & name  Is it signed off by the Director of Resources?  Is it signed off by the Assistant Director - Legal & Governance?	No financial implications  Yes
Cabinet member <a href="#">portfolio</a>	Resources

Electoral [wards](#) affected: ALL  
 Ward councillors consulted:

Public or private: PUBLIC

### Recommendations

That Annual Council:

Consider and agree the proposed changes set out in paragraphs 2.4.9 and 2.4.10, 2.5.5, and 2.6.1 of Appendix 1 of this Report.

Note that future reports will be tabled with constitutional amendments at the next meetings of CGA and this Council during the year.

Note that the exercise to tidy up the document as referred to in paragraph 2.3 of the report continues and that reports will come back to the CGA Committee and Council as appropriate.

## **1. PURPOSE OF THE REPORT**

- 1.1 To set out the proposed changes to the Council's Constitution as described in the following paragraphs and as set out in more detail in the attached appendices which show the proposed amendments and
- 1.2 To seek Members approval to these proposed changes

## **2. KEY POINTS**

- 2.1 This is the second report of a series of reports reviewing the Councils Constitution. The last one was considered by the Corporate Governance and Audit Committee on 6<sup>th</sup> March 2014 and then by Council on 24<sup>th</sup> March 2014
- 2.2 This report considers changes to:
  - 2.2.1 Council Procedure Rules (Part 4 of the Constitution) – these are further changes to update them to deal with the new obligations relating to recording and transparency for Council meetings which are contained in CPR 34 .At the date of the last meeting these were not in place but reference was made to the likely need to make these changes as the legislation was going through parliament in March.
  - 2.2.2 Access to Information (Part 4 of the Constitution) – to ensure they properly reflect the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 as well as any consequential amendments to other parts of the Constitution to properly reflect for example the new approach to delegations (as set out in Part 3 section F Scheme of Delegation to Officers) to ensure that the process for delegated decisions is properly reflected.
  - 2.2.3 Amendments to Section H of Part 3 of the Constitution which deals with the role of Management Board / decision making. This has been updated to better reflect the position.
- 2.3 Further reports will follow as already referred to in the March reports to CGA and Council on various aspects of the Constitution throughout the year looking at Terms of reference and protocols as well as miscellaneous issues including general tidying up e.g.
  - Consistent numbering
  - Use of definitions and terminology
  - Cross referencing relevant (up to date) legislation
  - Update cross referencing
  - Comprehensive index
- 2.4 The details of the proposed changes are set out in the report to Corporate Governance and Audit Committee on 15<sup>th</sup> May 2014. This is included at Appendix 1 of this report.

## 2.5 Corporate Governance and Audit Committee comments/ observations.

2.5.1 At the Corporate Governance and Audit Committee meeting on 15<sup>th</sup> May 2014 the proposed amendments and recommendations were considered. The Committee were in agreement with the proposed changes and made no further recommendations to change the recommendations.

2.5.2 They agreed that the proposed constitutional changes as set out in paragraphs 2.4.9/2.4.10, 2.5.5 and 2.6.1 of the report be noted and submitted to the meeting of Annual Council for consideration.

## 2.6 Summary of changes

2.6.1 The proposals at paragraph 2.4.9 of Appendix 1 are that:

- the current CPR 33 which is left blank currently be replaced by the “Proposed new Wording” set out below; and
- CPR 34(2) be deleted and the rest of CPR 34 be renumbered

### Existing wording

33. (Left deliberately blank)

### 34. Confidentiality of Meetings and Recording of Proceedings

- (1) The Council's meetings will be held in public unless the Access to Information Procedure Rules permit the public to be excluded. Those Rules also deal with public access to documents.
- (2) Any person attending a meeting may take written notes of the proceedings. Accredited representatives of the media as determined by the Assistant Director – Legal, Governance and Monitoring may use sound and visual recording equipment and take still photographs for publication.
- (3) A Member or employee of the Council shall not disclose to any person any document or any matter contained in any document which is marked "Confidential" or "not for publication" except with the permission of the Council, Cabinet, Committee, Sub-Committee, or Panel which considered the item, or if the person concerned has a legal right to inspect the document.

### Proposed new wording

### 33. Third Party Recording<sup>1</sup> of Committees, Boards and Panels

- 1) The Council wants to be open and transparent in the way in which it conducts its decision-making.

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<sup>1</sup> This includes both video and audio recording.

- 2) Recording is allowed at all meetings of the authority<sup>2</sup> to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings.
- 3) Filming or other recording of all meetings of the authority, whilst those meetings are to the public, is permitted<sup>3 4</sup>.
- 4) Those wishing to record proceedings should, as a courtesy, inform the chair (or clerk) of the meeting of their intentions to record prior to the commencement of the meeting.
- 5) Recordings may only be taken overtly from the area designated for the public and;
  - a) Recording devices must be in silent mode;
  - b) No flash or additional lighting is permitted;
  - c) Recordings must be taken from one fixed position and must not obstruct others from observing proceedings.
- 6) The chair of a meeting has the authority to instruct that recordings be stopped where<sup>5</sup>:
  - a) The press and public have been excluded from the meeting due to the nature of (exempt or confidential) business being discussed;
  - b) There is public disturbance or a suspension/adjournment of a meeting;
  - c) The recording has become disruptive or distracting to the good order and conduct of the meeting;
  - d) Continued recording is against the wishes of an individual<sup>6</sup>.

2.6.2 The proposal at paragraph 2.4.10 of Appendix 1 is to make a minor practical amendment to CPR 15 (4) and (5) as shown in track change below as Council do not appoint Cabinet but they do appoint a Leader.

#### **Proposed amendment**

#### **“15. Motions and Amendments Which May Be Moved Without Notice**

The following motions and amendments may be moved without notice:

<sup>2</sup> Including full Council, committees (boards and panels) established by full Council (and sub committees appointed by those committees) and Executive Board.

<sup>3</sup> In accordance with any regulations relating to such matters.

<sup>4</sup> All agendas will indicate that recordings may be made at the meeting by third parties; signage will also be displayed indicating this.

<sup>5</sup> In all cases recording equipment must be switched off.

<sup>6</sup> Where members of the public raise an objection to being recorded, then those individuals will not be filmed. However continued audio recording will be permitted where the contributions are material to the resolutions to be made.

- (4) Reference to ~~Cabinet~~ a Committee, Sub-Committee or Panel for further consideration.
- (5) Appointment of ~~Cabinet a Leader~~, or a Committee, or Member thereof arising from an item on the Agenda for the meeting.”

2.6.3 Paragraph 2.5.5 requests delegated authority to the Assistant Director – Legal, Governance and Monitoring to enable her to make the amendments required to various parts of the constitution to reflect the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and to make some general changes to the constitution to update parts of it to reflect changes in job titles.

2.6.4 Paragraph 2.6.1 of Appendix 1 proposes that the previous version of Section H of Part 3 of the Constitution which deals with Boards of Council Officers be updated to reflect the current arrangements. Proposed new wording is included in the report to Corporate Governance and Audit Committee as an Appendix.

### **3. IMPLICATIONS FOR THE COUNCIL**

It is essential that the Council’s Constitution is regularly reviewed and updated to ensure that it remains fit for purpose and to enable Council meetings to be conducted in a fair, business like and effective manner. It is also essential that the Constitution complies with current legislation. Failure to do so could lead to legal challenges, unnecessary procedural delays and less transparency in the Council’s democratic practices.

### **4. CONSULTEES AND THEIR OPINIONS**

Various officers in Legal, Governance and Monitoring Service and Resources.  
Corporate Governance and Audit Committee

### **5. NEXT STEPS**

Following consideration by Annual Council any consequential changes to the Constitution will be made by the Assistant Director – Legal Governance and Monitoring

### **6. OFFICER RECOMMENDATIONS AND REASONS**

That Annual Council:

- 6.1 Consider and agree the proposed changes set out in paragraphs 2.4.9 and 2.4.10, 2.5.5, and 2.6.1 of Appendix 1 of this report.
- 6.2 Note that future reports will be tabled with constitutional amendments at the next meetings of CGA and this Council later in the year.
- 6.3 Note that the exercise to tidy up the document as referred to in paragraph 2.3 continues and that reports will come back to this Corporate Governance and Audit Committee and Council as appropriate.

## **7. CABINET PORTFOLIO HOLDER RECOMMENDATION**

Not applicable.

## **8. CONTACT OFFICER AND RELEVANT PAPERS**

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## APPENDIX 1



Name of meeting: Corporate Governance and Audit Committee

Date: 16<sup>th</sup> May 2014

Title of report: PROPOSED CHANGES TO THE COUNCIL'S CONSTITUTION

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not Applicable
Is it in the <a href="#">Council's Forward Plan</a> ?	Not Applicable
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	Not Applicable
Date signed off by <u>Director</u> & name  Is it signed off by the Director of Resources?  Is it signed off by the Assistant Director - Legal & Governance?	No financial implications  Yes
Cabinet member <a href="#">portfolio</a>	Resources

Electoral [wards](#) affected: ALL

Ward councillors consulted:

Public or private: PUBLIC

### 1. PURPOSE OF THE REPORT

1.3 To set out the proposed changes to the Council's Constitution as described in the following paragraphs and as set out in more detail in the attached appendices which show the proposed amendments and

1.4 To seek Members approval and/or comments and/or recommendations in relation to these proposed changes to Annual Council on 4<sup>th</sup> June 2014.

### 2. KEY POINTS

2.1 This is the second report of a series of reports reviewing the Councils Constitution. The last one was considered by the Corporate Governance and Audit Committee on 6<sup>th</sup> March 2014 and then by Council on 24<sup>th</sup> March 2014

2.2 This report considers changes to:

2.2.1 Council Procedure Rules (Part 4 of the Constitution) – these are further changes to update them to deal with the new obligations relating to recording and transparency for Council meetings which are contained in [ ]. At the date of the last meeting these were not in place but reference was made to the likely need to make these changes as the legislation was going through parliament in March.

2.2.2 Access to Information (Part 4 of the Constitution) – to ensure they properly reflect the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 as well as any consequential amendments to other parts of the Constitution to properly reflect for example the new approach to delegations (–as set out in Part 3 section F Scheme of Delegation to Officers) to ensure that the process for delegated decisions is properly reflected.

2.2.3 Amendments to Section H of Part 3 of the Constitution which deals with the role of Management Board / decision making. This has been updated to better reflect the position.

2.3 Further reports will follow as already referred to in the March report on various aspects of the Constitution throughout the year looking at Terms of reference and protocols as well as miscellaneous issues including general tidying up e.g.

- Consistent numbering
- Use of definitions and terminology
- Cross referencing relevant (up to date) legislation
- Update cross referencing
- Comprehensive index

## **2.4 Council Procedure Rules (CPRs) (Part 4 of the Constitution)**

2.4.1 Paragraph 34(2) of the CPRs sets out the current arrangements for recording of meetings by third parties. Section 40 Local Audit and Accountability Act 2014 gives the Secretary of State a power to make regulations that may require local government bodies to allow members of the public the rights to attend all their public meetings and to have access to records relating to decisions taken by their officers.

2.4.2 The draft Openness of Local Government Bodies Regulations 2014 propose to amend the Public Bodies (Admission to Meetings) Act 1960, s.100A of the Local Government Act 1972 and the 2012 Regulations so as to allow any person to attend a public meeting of a "relevant local government body" for the purposes of reporting, and allow any persons with the aim or reporting to use any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities, during or after the meeting.



2.4.3 "Relevant local government body" includes all English two-tier and unitary authorities, fire authorities, national park authorities, joint committees (such as Police and Crime Panels) and also parish councils.

2.4.4 'Reporting' is defined as:

- filming, photographing or audio recording of proceedings
- using any other means for enabling persons not present to see or hear proceedings of a meeting as it takes place or later, and
- reporting or providing commentary on proceedings of a meeting, orally or in writing.

2.4.5 The changes do not affect the current circumstances in which a private meeting may be held or a person may be excluded (for example, where exempt information would be disclosed or in the case of disorderly conduct).

2.4.6 The current arrangements as set out in CPR 34(2) will not meet the likely requirements as set out in the draft regulations and it is therefore proposed to put in place appropriate arrangements sooner rather than later.

2.4.7 It should be noted that the Council is likely to put in place recording equipment at Dewsbury shortly which allow recording of meetings to be made by the council of its committee and other panel meetings in Dewsbury as it is already able to do in the Council Chamber in Huddersfield.

2.4.8 The draft regulations are also proposing new arrangements for recording delegated decisions/for more open information, which will be considered in a later report to this Committee. It is proposed that we consider new recording arrangements for the Council and other meetings now and at annual Council as we are making new arrangements to record more meetings as a Council.

2.4.9 The proposals are that:

- the current CPR 33 which is left blank currently be replaced by the "Proposed new Wording" set out below; and
- CPR 34(2) be deleted and the rest of CPR 34 be renumbered

#### **Existing wording**

**33.** (Left deliberately blank)

#### **34. Confidentiality of Meetings and Recording of Proceedings**

- (1) The Council's meetings will be held in public unless the Access to Information Procedure Rules permit the public to be excluded. Those Rules also deal with public access to documents.
- (2) Any person attending a meeting may take written notes of the proceedings. Accredited representatives of the media as determined by the Assistant Director – Legal, Governance and Monitoring may use sound and visual

recording equipment and take still photographs for publication.

- (3) A Member or employee of the Council shall not disclose to any person any document or any matter contained in any document which is marked "Confidential" or "not for publication" except with the permission of the Council, Cabinet, Committee, Sub-Committee, or Panel which considered the item, or if the person concerned has a legal right to inspect the document.

### **Proposed new wording**

#### **33. Third Party Recording<sup>7</sup> of Committees, Boards and Panels**

- 7) The Council wants to be open and transparent in the way in which it conducts its decision-making.
- 8) Recording is allowed at all meetings of the authority<sup>8</sup> to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings.
- 9) Filming or other recording of all meetings of the authority, whilst those meetings are to the public, is permitted<sup>9 10</sup>.
- 10) Those wishing to record proceedings should, as a courtesy, inform the chair (or clerk) of the meeting of their intentions to record prior to the commencement of the meeting.
- 11) Recordings may only be taken overtly from the area designated for the public and;
- d) Recording devices must be in silent mode;
  - e) No flash or additional lighting is permitted;
  - f) Recordings must be taken from one fixed position and must not obstruct others from observing proceedings.
- 12) The chair of a meeting has the authority to instruct that recordings be stopped where<sup>11</sup>:
- e) The press and public have been excluded from the meeting due to the nature of (exempt or confidential) business being discussed;
  - f) There is public disturbance or a suspension/adjournment of a meeting;
  - g) The recording has become disruptive or distracting to the good order and conduct of the meeting;

<sup>7</sup> This includes both video and audio recording.

<sup>8</sup> Including full Council, committees (boards and panels) established by full Council (and sub committees appointed by those committees) and Executive Board.

<sup>9</sup> In accordance with any regulations relating to such matters.

<sup>10</sup> All agendas will indicate that recordings may be made at the meeting by third parties; signage will also be displayed indicating this.

<sup>11</sup> In all cases recording equipment must be switched off.

h) Continued recording is against the wishes of an individual<sup>12</sup>.

2.4.10 A further minor practical amendment is needed to CPR 15 (4) and (5) as shown in track change below as Council do not appoint Cabinet but they do appoint a Leader.

#### Proposed amendment

##### “15. Motions and Amendments Which May Be Moved Without Notice

The following motions and amendments may be moved without notice:

- (4) Reference to ~~Cabinet~~ a Committee, Sub-Committee or Panel for further consideration.
- (5) Appointment of ~~Cabinet a Leader~~, or a Committee, or Member thereof arising from an item on the Agenda for the meeting.”

## 2.5 Access to Information (Part 4 of the Constitution) and consequential changes

2.5.1 The amendments proposed are to ensure that this part of the Constitution properly reflects the Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012.

2.5.2 There are various references to officers in this document as well as elsewhere in the constitution where the job titles of those officers have changed. It is proposed that where references are made to those officers in the first column below that they be replaced by the references in the second column.

Old reference to Job title	New reference to job title required
Director of Finance	Director of Resources
Head of Legal Services	Assistant Director – Legal, Governance and Monitoring
Head of Policy and Governance	Head of Governance and Democratic Services

2.5.3 A brief description of changes required to this part of the Constitution in order to reflect the Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012 is set out in the table below.

<sup>12</sup> Where members of the public raise an objection to being recorded, then those individuals will not be filmed. However continued audio recording will be permitted where the contributions are material to the resolutions to be made.

Proposed amendments
Paragraph 7 – access to Documents after the meeting be amended to reflect payment for requests for copies of decisions (Reg 14(2))
Paragraph 8.2 –Public Inspection of background Documents be amended to reflect the requirement that they need to be available on the website and available at the Council offices for inspection on payment of a reasonable fee
Amendments to time periods for key decisions and private meetings at various paragraphs
Paragraph 23 – Decisions by Individual members  Needs updating to reflect decisions taken by members and officers being available with appropriate cross reference to the schemes of delegation of Directors and the Assistant Director- Legal, Governance and Monitoring to their officers
Paragraph 25 .1 (c )  Requires amendment to refer to the relevant part of the Code of Conduct rather than prejudicial interest (previous wording under old Code of Conduct)
Paragraph 17  Update to reflect access to Overview and Scrutiny of material relating to past decisions

2.5.4 There may be various consequential amendments required to other parts of the Constitution to reflect these changes about decision making. For example Section F of Part 3 which deals with the Scheme of Delegation to Officers.

2.5.5 Delegated authority is requested to the Assistant Director –Legal, Governance and Monitoring to enable her to make the amendments described in paragraphs.

2.5.1 -2.5.4 and any consequential amendments required to reflect the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

## **2.6 Amendments to Section H of Part 3 of the Constitution Boards of Council Officers**

2.6.1 It is proposed that the previous version of this which is out of date be replaced by that set out at Appendix 1 of this report which more accurately reflects the position currently adopted.

## **3. IMPLICATIONS FOR THE COUNCIL**

It is essential that the Council’s Constitution is regularly reviewed and updated to ensure that it remains fit for purpose and to enable Council meetings to be conducted in a fair, business like and effective manner. It is also essential that the Constitution complies with current legislation. Failure to do so could lead to legal challenges, unnecessary procedural delays and less transparency in the Council’s democratic practices.

#### **4. CONSULTEES AND THEIR OPINIONS**

Various officers in Legal, Governance and Monitoring Service and Resources.

#### **5. NEXT STEPS**

This will be considered by Annual Council on 4<sup>th</sup> June 2014. Feedback from and comments from this meeting will be included in that report.

#### **6. OFFICER RECOMMENDATIONS AND REASONS**

That this Committee

6.1 Consider the proposed changes set out in paragraphs 2.4.9 and 2.4.10, 2.5.5, and 2.6.1 and make any comments/observations before the changes are considered by Council.

6.2 Note that future reports will be tabled with constitutional amendments at the next meeting of CGA and later in the year.

6.3 Note that the exercise to tidy up the document as referred to in paragraph 2.3 continues and that reports will come back to this Committee and Council as appropriate.

#### **7. CABINET PORTFOLIO HOLDER RECOMMENDATION**

Not applicable

#### **8. CONTACT OFFICER AND RELEVANT PAPERS**

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## **Appendix 1**

### **SECTION H**

#### **Boards of Council Officers**

In January 2011, the Chief Executive created the Director Group, Management Board and Council Managers Group to replace the former Executive Management Group, Senior Management Group and SMG+ meetings, after the rationalisation of the Councils senior management structures in 2010.

- The Director Group consists of the Chief Executive and Directors
- The Management Board consists of the Chief Executive, Directors and Assistant Directors.
- The Council Manager Group consists of the Chief Executive, Directors, Assistant Directors and all of the other senior managers (Grades 17-19).

The Chief Executive sets the agendas for these meetings drawing on a forward programme of business that provides a core spine and constant reminder of the key items of management and strategic business that require attention by officers and elected members. These arrangements reflect the significant number of strategic issues which require input from more than one service or portfolio area. The forward programme of business combines work generated by Cabinet Members and their portfolio briefings with strategic work associated with the management of the Council's budget and workforce. The administration and support for these meetings is provided by officers from the Legal, Governance and Monitoring Service.

Each of the items in the forward programme is allocated to a Director or an Assistant Director to consider and develop. Some of these items may also require attention within some informal networks and working groups. Director Group and Management Board are supported by such groups, comprising individual directors and assistant directors, as are necessary to discharge their business.

However, all significant recommendations for the change which the lead officers and/or groups do propose have to be referred to the Management Board for consideration and approval.

The items and recommendations for action that require consideration or formal decisions are also shared with the Leader and Cabinet, Leaders, Overview and Scrutiny and Council, as appropriate.