

Name of meeting: Corporate, Governance and Audit Committee

Date: 12th May 2017

Title of report: Proposed changes to the Council's Constitution

Purpose of report

To set out proposed changes to the Council's constitution as described in paragraph 2 and as set out in more detail in the attached Appendices, which show some the proposed amendments.

To seek approval and/or comments and/or recommendations from Committee in relation to these proposed changes to make to Annual Council on 24 May 2017.

Key Decision - 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
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	Not applicable
The Decision - Is it eligible for "call in" by Scrutiny?	Not applicable
Date signed off by Director & name Is it also signed off by the Service Director for Finance, Information and Transactional Service? Is it also signed off by the Service Director – Legal, Governance and Commissioning Support?	No financial implications Julie Muscroft - 4 May 2017
Cabinet member portfolio	Graham Turner

Electoral wards affected: N/A

Ward councillors consulted: N/A

Public or private: Public

1. Summary

- 1.1 To set out proposed changes in relation to different sections of the constitution and seek approval by members of those proposed changes at paragraph 2. Each section of the Constitution is set out below with information setting out the minor amendments made or details of the proposed change for which approval and/or comments is sought.
- 1.2 The Constitution has been reviewed throughout the year in relation to a number of areas. This is an on-going process to ensure it is correct and up to date and reflects any changes to re-structure, procedures and legislation.

- 1.3 There have been some minor changes using the delegated authority granted to the Monitoring Officer by Council on 20 May 2015 in Report 2 to reflect changes of officer titles, typing or grammatical errors, old references and new legislation.
- 1.4 It should be noted that a separate report setting out proposals in relation to Call In and scrutiny arrangements is also on the agenda of this committee today.
- 1.5 There are also separate reports on the Contract Procedure Rules and Financial Procedure Rules.

2. Information required to take a decision

PART 1 – Summary and Explanation

- 2.01 This provides a summary and explanation of what is included in the constitution. This has been reviewed and there are no requests for approval for any changes.

Changes made by the Monitoring Officer (MO) under the delegation provided to her in Report 2 on 20 May 2015 are set out in the tables below

MO Amendments	
<ul style="list-style-type: none"> • Reviewed and minor amendments made to reflect the 17 articles not 16 • Remove old references to area committees and change to district 	To note for information only

PART 2 – ARTICLES

- 2.02 There are 17 articles that set out how the council operates. This has been reviewed and there have been a number of amendments made by the Monitoring Officer to reflect changes and errors. The following articles have proposed changes as follows:-

2.03 Article 7 – The Executive

During 2016 the Council operated for a period of time when it failed to elect a Leader. Article 7 did not make reference to decision making during such a time and as a result it was necessary to obtain legal advice. Following advice from the QC, it is proposed that paragraph 7.9 is added to Article 7 which will clearly set out who is responsible in the event the Council is without a Leader.

Members are asked to recommend the draft proposal attached at Appendix 1 is adopted and to consider whether they wish the Chief Executive to act in consultation with all political parties. This is optional and can be removed.

2.04 Article 10 – District Committees

Proposals are to be considered at Cabinet for the introduction of a Ward Budget of £10,000 per ward for use by Councillors to replace existing District Committee funding arrangements. This will be either used collectively by three Ward colleagues working together or on an individual basis, with £3,333 allocated to individual Councillors. There will be a proportionate governance arrangements put in place to administer the scheme, with expenditure arising from this allocation being published on the Councils website and with a requirement that there be at least one public Ward Forum meeting to outline details of the way the budget has been used.

It is therefore proposed that District Committees be not re-constituted in the 2017/18 Municipal year and this would require an amendment to Article 10 for the Constitution. Work will take place during 2017/18 to develop long term arrangements for Councillors working within their Communities and this will be informed by the outcomes of the work of the Democracy Commission.

Arrangements for the discharge of outstanding Executive Delegations to District Committees for Street naming and Housing Revenue Account Environmental Improvement Budget allocations will be determined by Cabinet and this will require a subsequent change to Part 3 of the Constitution – Responsibility for Functions.

2.05 Article 11 – Joint Arrangements

Members are asked to recommend the approval of the amendments to Article 11 which has been updated to reflect the changes in legislation.

Members are asked to recommend the proposed amendments to Council set out at Appendix 2.

2.06 Article 14 – Finance, Contract and Legal Matters

This article has been updated to reflect changes in the Contract Procedure Rules and to bring the article up to date.

Members are asked to recommend the proposed amendments set out at Appendix 3.

MO Amendments	
<ul style="list-style-type: none">• Update reference to Local Government Boundary Commission as named changed• Remove old references to area committees and change to district• Changes to reflect new officer titles at Service Director levels• Update legislation as parts of the Anti-Social Behaviour Act has been repealed and replaced with the Anti-Social Crime and Policing Act 2014	To note for information only

PART 3 – RESPONSIBILITY FOR FUNCTIONS

- 2.07 This part details the Council's Cabinet, committees' and other groups' responsibilities, terms of references, delegations and contains each individual Cabinet Member's specific responsibilities.
- 2.08 Section F sets out the Scheme of Delegation to Officers. This includes executive and non-executive delegations to officers. There have been changes to the titles and responsibilities following a review of the Senior Management structure.

A number of transitional changes have already been considered by CGA in an earlier report dated 23 September 2016 which were agreed by Council. These related to the delegations to the Director of Resources. The majority of the amendments relate to executive responsibilities and do not require approval by the Council. Recommendation is sought specifically in relation to the non-executive functions in so far as they have changed

Constitutional Changes to Note

That the non-executive functions under the headings Strategic Financial Advice and Accounting, Risk and Performance be carried out by the Service Director – Finance, Information and Transactional Services (also the s.151 Officer) (this continues the position as set out above from September 2016)

That the non-executive functions under the headings Governance and Democratic Services and in relation to Procurement in Appendix 4 be carried out by the Service Director – Legal, Governance and Commissioning Support (this continues the position as set out above from September 2016)

That the non-executive functions under the headings Support Services Matters be carried out by the Chief Executive

That the non-executive functions under the headings Communities and Leisure be carried out by the Strategic Director of Economy and Infrastructure

The details of the changes are set out at Appendix 4 for the transitional period until the re-organisation of the Senior Management team has concluded. **Members are asked to recommend the approval of the non- executive amendments to Council.**

- 2.09 In recognition of the proposal to be considered separately by Corporate Governance and Audit Committee and Annual Council regarding the reintroduction of Overview and Scrutiny Standing Panels and the focus that will be placed on policy development work as part of their role **it is proposed that the Policy Committee be not re-established in the 2017/18 Municipal Year** and that the terms of reference for Policy Committee be accordingly removed from Part 3 of the Constitution.

- 2.10 As indicated earlier in the report, it is proposed that District Committees be not re-established in the 2017/18 Municipal Year and, accordingly, existing Executive delegations will be considered by Cabinet, requiring amendments to be made to Part 3 of the Constitution.

PART 4 – RULES OF PROCEDURE

- 2.11 This section contains eight documents which describe how Councillors and Officers conduct themselves in meetings and make decisions about certain matters.

2.12 Council Procedure Rules

Changes made by the Monitoring Officer under the delegation provided to her are set out in the table below.

MO Amendments	
<ul style="list-style-type: none"> • CPR 5(2) Additional wording inserted to deal with written questions to Cabinet Members - new bullet at ‘..(k); <i>The Leader, Deputy Leader and Cabinet Members</i>’ • CPR 9 – Inserted ‘ <i>and Members of the Public</i>’ at the end of the title • CPR 9 and 10(1) - Text amended to read ‘<i>Except meetings of Annual, Budget or Extraordinary Council</i>’ • CPR 12(8) – Split into 8(i) and 8(ii) • CPR18(15) – Final sentence changed to ‘...<i>the close of the debate and on any subsequent amendment</i>’ • CPR 19(3) – update title of Director of Resources • CPR 36(1)(a) – Removed 	To note for information only

- 2.13 CPR 10 (4) currently states ‘*The deputation shall not exceed five persons. Only one person shall speak, and the speech shall not exceed five minutes*’.

There is currently a restriction within CPRs that only one person may speak on one deputation. **Members are asked to consider whether they wish to amend this rule, to enable more than one representation to be made to the meeting on a subject matter, within the five minute allocation that is permitted.**

- 2.14 CPR 19 (3) currently states ‘*An amendment to a Motion proposed ...cannot be moved unless it has been approved by the Chief Executive at least seven days prior to the date of the Budget Meeting.*’ It is suggested that the CPR is amended to replace the word ‘*approved*’ with ‘*submitted*’ to reflect the current process, and that the time of 10.00am is inserted to bring it into line with the provisions of CPR 14(9). **Members are asked to approve the amendment.**

The amended CPR would therefore be;

'Any amendment to a motion proposed under Paragraph (1) above, cannot be moved unless it has been submitted to the Chief Executive no later than 10.00am 7 days prior to the date of the Budget Meeting. The Notice of such an amendment must be delivered to the Chief Executive and must specify the terms of the proposed amendment and the effect which it will have on the draft Revenue Budget.'

Amendments to the Budget Motion cannot be accepted unless the Chief Executive is satisfied, upon the advice of the Service Director – Finance, Information and Transactional Services, that the proposed amendment is financially sound and sustainable.'

2.15 During the year a number of other matters have arisen which members are asked to consider and which include the following:

- a) All council meetings to begin at 5pm
- b) All councils meetings to have a scheduled 15 minute break
- c) Insert 24 hours' notice of deputations for all meetings

Members are asked to give consideration to the suggestions above and provide comments and/or recommendation of the suggested amendments to Council. A copy of the Council Procedure rules showing the amendments is attached at Appendix 5.

Access to Information

2.16 There are proposed amendments to this section to update it but they require further consideration by Officers and will be updated using the Monitoring Officers delegation during 2017/2018.

Financial Procedure Rules

2.17 There are proposed amendments and these will be the subject of a separate report to this committee.

Contract Procedure Rules

2.18 There are proposed amendments and these will be the subject of a separate report to this committee.

Officer Employment Procedure Rules

2.19 This requires more comprehensive updating and will be subject to further report during 2017/18.

Part 5 – CODES AND PROTOCOLS

2.20 This section sets out the council's Codes and Protocols in relation to a number of areas

Members' Code of Conduct

- 2.21 The Members Code of Conduct has been subject to a Standards Review and updates to the Code have been approved by full Council on 26 April 2017. **Members are asked to note the amended Code of Conduct to Council attached at Appendix 6 as a result.**

Monitoring Officer Protocol

- 2.22 This has been updated during this year using the MO delegation to reflect new officer titles, amend references to the previous standards regime and legislation updates.

Standards of Conduct in Public

- 2.23 This will be removed as this has been incorporated in the amended Members Code of Conduct.

Protocol for Planning Committees and Sub-Committees

- 2.24 This has been reviewed and updated using the MO delegation to reflect the new officer titles and current practice.

Decision Making on Ward Issues - Procedural Advice to Cabinet Members

- 2.25 This will be reviewed during 2017/18 and initially referred back to Standards Committee for any proposed changes for consideration. Any recommended changes will be presented in a further report to CGA.

Protocol on the role of Representatives and Key Outside Bodies in representing the interests of the Council

- 2.26 This will be reviewed during 2017/18, once the review of the relationship with outside bodies by Martin Dearnley has concluded and any proposed changes will be presented in a further report to CGA.

Officers' Code of Conduct

- 2.27 This requires more comprehensive updating and will be subject to further report during 2017/18.

Protocol for Public Speaking at Planning Committees and Sub-Committees

- 2.28 This has been reviewed and updated using the MO delegation to reflect the new officer titles and current practice.

Licensing Committee Protocol

- 2.29 No changes are proposed.

Councillors and Officers in Kirklees – A Protocol for Working Effectively

- 2.30 This has been recently reviewed and updated using the MO delegation to reflect the new officer titles.

Safeguarding Protocol

- 2.31 This has been reviewed and no changes are necessary

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 process.

3.1 Early Intervention and Prevention (EIP)

N/A

3.2 Economic Resilience (ER)

N/A

3.3 Improving Outcomes for Children

N/A

3.4 Reducing demand of services

N/A

4. Consultees and their opinions

- 4.1 Chief Executive and various officers in Legal, Governance and Monitoring and Resources have been consulted.

5. Next steps

- 5.1 This will be considered by Annual Council on 24 May 2017. Any feedback and comments or recommendations from CGA will be included in that report.
- 5.2 Any amendments agreed by Council will be made to the Constitution

6. Officer recommendations and reasons

That CGA:

- 6.1 Consider the proposed changes set out in paragraphs 2.03, 2.04, 2.05, 2.06, 2.08, 2.09, 2.13, 2.14, 2.15 and 2.21 and Appendices 1-6 and make any recommendations/comments/observations before the changes are considered by Council.
- 6.2 Recommend to Council that authority is delegated to the Service Director – Legal, Governance and Commissioning to make appropriate

amendments to the constitution which are agreed by Council as well as any consequential amendments to the constitution to reflect the changes agreed and proposed in this report.

7. Cabinet portfolio holder recommendation

N/A

8. Contact officer

Julie Muscroft, Service Director – Legal, Governance and Commissioning

9. Background Papers and History of Decisions

Update in relation to Senior Management Changes and transitional Constitutional changes – 23 September 2016

10. Service Director responsible

Julie Muscroft, Service Director – Legal, Governance and Commissioning Support, 3rd floor, Civic Centre 1. Telephone: 01484 221000. Email Julie.muscroft@kirklees.gov.uk

Appendices

App 1 – Article 7

App 2 – Article 11

App 3 – Article 14

App 4 – Section F – Delegations

App 5 – CPR rules

App 6 – Code of Conduct