

**Name of meeting: Corporate, Governance and Audit Committee**

**Date: 26<sup>th</sup> April 2019**

**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 the proposed amendments.

To note changes to the Constitution that have been made during the year.

To seek approval and/or comments and/or recommendations from Committee in relation to these proposed changes to make to Annual Council on 22 May 2019.

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 <a href="#">Council's Forward Plan (key decisions and private reports)?</a>	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?	No financial implications
Is it also signed off by the Service Director – Legal, Governance and Commissioning Support?	Julie Muscroft
Cabinet member portfolio	Graham Turner

**Electoral wards affected: N/A**

**Ward councillors consulted: N/A**

**Public or private: Public**

**Have you considered GDPR? Yes**

**1. Summary**

- 1.1 To set out proposed changes in relation to different parts of the constitution and seek approval by members of those proposed changes set out at paragraph 2. Each affected section of the Constitution is set out below with information setting out details of any proposed changes for which approval and/or comment 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. The outcome of that review is set out in this report.
- 1.3 There have been some minor changes using the delegated authority granted to the Monitoring Officer by Council on 20 May 2015 to reflect changes of officer titles, typing or grammatical errors, old references and new legislation. These are listed at Appendix 1, along with the changes to the Constitution that were proposed to Annual Council and agreed on the 23<sup>rd</sup> of May 2018.

## **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. There are no current requests for approval for any changes.

### **PART 2 – ARTICLES**

- 2.02 There are 17 articles that set out how the council operates. There has been one amendment made by the Monitoring Officer to reflect minor changes and errors, these are shown in Appendix 1 There are no current requests for approval for any changes but members should be made aware that the Policy Framework in Article 4 is currently being reviewed and a report will be presented to a future meeting of this Committee and Council .

### **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

- 2.03 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. There have been two amendments made by the Monitoring Officer to reflect minor changes and errors, which are detailed in Appendix 1.
- 2.04 There are proposed changes to the terms of reference for the Corporate Governance and Audit Committee (CGA). It is proposed to expand Section 7, so that it will read as follows:

7. To review the adequacy of the council's Corporate Governance arrangements. This will include (but not be limited to) the following:

- 7.1 internal control and risk management;
- 7.2 oversight of whistleblowing and the Council's whistleblowing policy;
- 7.3 oversight of the complaints process and the role of the Local Government Ombudsman;

7.4 oversight of Information Governance and the role of the ICO

7.5 to review and approve the annual statement of Corporate Governance.

These are clarificatory amendments.

- 2.05 The committee is asked to note that there will be some proposed changes to the terms of reference of the Personnel Committee, which will be the subject of a further report in due course.

## **PART 4 – RULES OF PROCEDURE**

- 2.06 This section contains eight documents which describe how Councillors and Officers conduct themselves in meetings and make decisions about certain matters. There have been two amendments made by the Monitoring Officer to reflect minor changes and errors, which are detailed in Appendix 1.

### Council Procedure Rules

- 2.07 **CPR 5** does not currently list '*Public Question Time*' under the 'PROCEDURAL' heading.

**Members are asked to consider formally adding this to CPR 5.**

- 2.08 **CPR 9a** currently states '*if a validated petition contains more than 3000 signatures, the Petition Organiser will be permitted five minutes to present their petition to Council and the subject matter will then be debated by Council for a maximum of 15 minutes.*'

It is suggested that the CPR is amended to add the words '*(or their representative)*' after '*Petition Organiser*'. **Members are asked to approve the amendment.**

The amended CPR would therefore be;

*'if a validated petition contains more than 3000 signatures, the Petition Organiser (or their representative) will be permitted five minutes to present their petition to Council and the subject matter will then be debated by Council for a maximum of 15 minutes.'*

- 2.09 Following on from the debate at the Council meeting on 20 March 2019 at which it was agreed that Council Procedure Rules be reviewed with a view to improving Council meetings the following principles have been developed to be used to inform the changes to be made to the format of meetings:

- i. Enhancing the representational role of Councillors at Council Meetings

- ii. More time for consideration of motions and strategic discussions on matters of public interest
- iii. Create more opportunities for Council to influence policy formulation
- iv. Improvement to the quality of discussion on written questions

- 2.10 It is proposed that work be undertaken to develop a proposal that will allow for designated time in Council Meetings for the consideration of motions and strategic issues of public interest. It is intended that this work will be done in conjunction with Councillors and the Council's Democracy Commission and will be reported for consideration at the meeting of Council to take place on 17 July 2019.
- 2.11 It is recommended that, in the short term, changes be made to Council Procedure Rules at Annual Council to ensure that written answers are provided in instances where written questions are not dealt with at meetings due to time constraints (CPR 12). It is also recommended that, in relation to CPR 18(17)(a) regarding the closure of a debate, that this be amended to require the Mayor to take account of the number of outstanding speakers who have indicated a wish to speak in a debate when considering if the matter under consideration has been sufficiently discussed.
- 2.12 The proposed changes in the paragraph above have been incorporated into the proposed changes that are recommended to be adopted in the attached Council Procedure Rules at Annual Council.
- 2.13 Members will note that, a number of typos and formatting errors have also been corrected in the Council Procedure Rules as well.

**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 proposed amendments is attached at Appendix 2.**

#### Access to Information Procedure Rules

- 2.14 There have been amendments to the *Access to Information Procedure Rules*, made in accordance with a previous delegation, and a copy of it is attached at Appendix 1B.
- 2.15 The amendments incorporate the requirements of the *Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012* and the *Openness of Local Government Bodies Regulations 2014*.
- 2.16 They also clarify the exclusion of the public at meetings and exempt information.

#### Financial Procedure Rules

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

#### Contract Procedure Rules

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

#### Officer Employment Procedure Rules

- 2.19 There are no proposed amendments.

### **Part 5 – CODES AND PROTOCOLS**

- 2.20 This section sets out the council's Codes and Protocols in relation to a number of areas. There has been one change made by the Monitoring Officer to the *Protocol for Public Speaking at Planning Committees and Sub-Committees* to reflect minor changes and errors, detailed in Appendix 1.

#### Members' Code of Conduct

- 2.21 There are proposed amendments and these are the subject of a separate report to this committee.

#### Monitoring Officer Protocol

- 2.22 There are no proposed amendments.

#### Protocol for Planning Committees and Sub-Committees

- 2.23 There are no proposed amendments.

#### Decision Making on Ward Issues - Procedural Advice to Cabinet Members

- 2.24 Further review will be undertaken during 2019/20 and initially referred back to Standards Committee for any proposed changes for consideration. Any recommended changes will then 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

- 2.25 This will be reviewed during 2019/20, once the review of the relationship with outside bodies has concluded and any proposed changes will be presented in a further report to CGA.

#### Officers' Code of Conduct

- 2.26 This requires more comprehensive updating and will be subject to further report during 2019/20.

## Protocol for Public Speaking at Planning Committees and Sub-Committees

- 2.27 This has been reviewed and updated using the Monitoring Officer delegation to reflect minor changes, as detailed in Appendix 1A. There are no proposed further amendments.

## Licensing Committee Protocol

- 2.28 There are no proposed amendments.

## Councillors and Officers in Kirklees – A Protocol for Working Effectively

- 2.29 This protocol is to be the subject of some work involving the Democracy Commission. Any proposed changes will be referred to the Committee if appropriate.

## Safeguarding Protocol

- 2.30 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 Working with People**

N/A

#### **3.2 Working with Partners**

N/A

#### **3.3 Place Based Working**

N/A

#### **3.4 Improving Outcomes for Children**

N/A

#### **3.5 Other (e.g. Legal/Financial or Human Resources)**

N/A

### **4. Consultees and their opinions**

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

### **5. Next steps**

- 5.1 This will be considered by Annual Council on 22 May 2019. 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 2.03, 2.04, 2.07 to 2.08, 2.11 to 2.12, and Appendices 2-4 and make any recommendations/ comments /observations before the changes are considered by Council.
- 6.2 Note the changes made under delegated authority referred to in Appendices 1 A and 1B.
- 6.3 Recommend to Council that the Service Director Legal Governance and Commissioning be delegated with authority to make appropriate amendments to the constitution which are agreed by the Council as well as any consequential amendments to the constitution to reflect the changes agreed.

## **7. Cabinet portfolio holder recommendation**

N/A

## **8. Contact officer**

Julie Muscroft, Service Director – Legal, Governance and Commissioning

David Stickley, Senior Legal Officer

## **9. Background Papers and History of Decisions**

## **10. Service Director responsible**

Julie Muscroft, Service Director – Legal, Governance and Commissioning Support, 3<sup>rd</sup> floor, Civic Centre 1. Telephone: 01484 221000. Email [Julie.muscroft@kirklees.gov.uk](mailto:Julie.muscroft@kirklees.gov.uk)

## **Appendices**

Appendix 1A – Amendments made under delegated authority and following 2018 Annual Council

Appendix 1B - Copy of the Access to Information Procedure Rules.

Appendix 2 – Track change copy of the Council Procedure Rules, showing proposed changes