

Name of meeting: Council (Annual)

Date: 22 May 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 some of the proposed amendments.

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?	N/A
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports)?	N/A
The Decision - Is it eligible for "call in" by Scrutiny?	No
Date signed off by Director & name	
Is it also signed off by the Head of Finance and Accountancy?	Eamonn Croston
Is it also signed off by the Service Director - Legal Governance and Commissioning?	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? There are no GDPR implications relating to this report

1. Summary

1.1 To set out, in section 2, the proposed changes in relation to the different parts of the Constitution and to seek approval by members of those proposed changes. Each section of the Constitution is set out below with information setting out details of the proposed change for which approval and/or comment is sought.

1.2 There have been some minor changes using delegated authority granted to the Monitoring Officer by Council on 20 May 2015 to reflect changes to officer's titles, typing or grammatical errors, old references and new legislation. The list of changes made using the Monitoring Officer's delegation are set out in the attached Appendix 1 for information and members are asked to note those changes.

- 1.3 The Constitution has been reviewed during the year in relation to some areas. This is an on-going process to ensure it is correct and up-to-date and reflects any changes to any re-structuring, procedures and legislation. The outcome of that review is set out in this report.

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 current proposed 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 correct minor errors, and this is shown in Appendix 1. There are no current requests for approval of any changes but members should be aware that the Policy Framework in Article 4 is currently being reviewed and a report will be brought to a future meeting of the Corporate Governance and Audit Committee and then to Council to consider this.

PART 3 - RESPONSIBILITY FOR FUNCTIONS

- 2.03 This part details the council's cabinet, committees' and other groups' responsibilities. This section also contains each individual Cabinet Member's specific responsibilities. There have been two amendments made by the Monitoring Officer to address minor errors and changes. These 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 and reflect what the Committee is already doing.

- 2.05 Council 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 address minor errors and changes, and these are detailed in Appendix 1.

Council Procedure Rules

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

On the recommendation of the Corporate Governance and Audit Committee 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*'. **On the recommendation of the Corporate Governance and Audit Committee 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 it is the intention that this will be reported for consideration at the meeting of Council to take place on 17 July 2019.
- 2.11 It was 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 was 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, but this recommended change was **not** approved by the Corporate, Governance and Audit Committee. The view taken was that this rule should be considered as part of the wider review that will involve the Democracy Commission referred to above and that therefore any changes be deferred for consideration there.
- 2.12 The proposed changes to CPR12 that were recommended have been incorporated into the amended version of the Rules at Appendix 2. The proposed amendment to CPR18 that was not recommended by the Corporate Governance and Audit Committee is highlighted to ensure Council is aware of the proposed change that was not recommended by the Corporate Governance and Audit Committee but which it was suggested be considered with the Democracy Commission. For clarity and the purpose of the recommendations in section 6 the highlighted amendment to CPR 18 (17) (a) is included for information only and not approval at this stage.
- 2.13 Members will note that a number of typos and formatting errors have also been corrected in the Council Procedure Rules.

Members are asked to give consideration to the proposed amendments to the Council Procedure Rules at CPR12 which is for approval and CPR18 for information and noting at this stage. 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 3 for information.
- 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 rules on exempt information.

2.17 Budget and Policy Framework Rules

There are no proposed amendments to these rules.

2.18 Executive Procedure Rules

There are no proposed amendments to these rules.

2.19 Financial Procedure Rules

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

2.20 Contract Procedure Rules

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

2.21 Overview and Scrutiny Procedure Rules

There are no proposed amendments to these rules.

2.22 Officer Employment Procedure Rules

There are no proposed amendments to these rules.

PART 5 – CODES and PROTOCOLS

2.23 This section sets out the Council's Codes and Protocols in relation to a number of areas.

2.24 Members Code of Conduct

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

2.25 Monitoring Officer Protocol

There are no proposed amendments to this protocol.

2.26 Protocol for Planning Committees and Sub-Committees

There are no proposed amendments to this protocol.

2.27 Decision Making On Ward Issues – Procedural Advice to Cabinet Members

This will be reviewed during 2019/20 and initially referred back to the Standards Committee for any proposed changes for consideration. Any recommended changes will then be presented in a further report to the Corporate Governance and Audit Committee and then to Council as appropriate.

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

This will be reviewed during 2019/20. Any recommended changes will then be presented in a further report to the Corporate Governance and Audit Committee and then to Council as appropriate.

2.29 Officers Code of Conduct

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

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

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

2.31 Licensing and Safety Committee Protocol

There are no proposed amendments to this protocol.

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

This protocol is to be the subject of some work that will involve the Democracy Commission. Any proposed changes will be referred to the Corporate Governance and Audit Committee and then to Council as appropriate.

2.33 Safeguarding Protocol

There are no proposed amendments to this protocol.

3. Implications for the Council

It is essential 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 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 implications (Financial, legal etc...)

N/A

4. Consultees and their opinions

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

Proposed changes to the Code of Conduct were discussed and agreed by the Standards Committee before being passed to the Corporate Governance and Audit Committee for discussion and recommendation.

The Corporate, Governance and Audit committee also discussed proposed changes to the Council Procedure Rules, including the Financial Procedure Rules and the Contract Procedure Rules and made recommendations.

The Corporate, Governance and Audit Committee were in agreement to most of the changes proposed to the constitution at their meeting on 26th April 2019. The only proposed change that was not agreed to be recommended to Council was that at CPR18, referred to in para 2.11 above.

5. Next steps

5.1 Any amendments agreed by Council will be made to the Constitution.

6. Officer recommendations and reasons

That Council:-

- a. Note the changes made to the Constitution in 2018/2019 listed in Appendix 1.
- b. Approve the proposed changes to the Councils constitution as set out in the paragraphs 2.04, 2.07, 2.08, 2.09, 2.11, 2.12 and 2.13, and the accompanying relevant Appendices and having regard to the comments from Corporate, Governance and Audit Committee.
- c. Note the further work being undertaken to keep the Council's Constitution under review.
- d. Delegate authority 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.

7. Cabinet portfolio holder recommendation

N/A

8. Contact officer

Julie Muscroft – Service Director – Legal, Governance and Commissioning
01484 221 000
julie.muscroft@kirklees.gov.uk

9. Background Papers and History of Decisions

Report to Corporate, Governance and Audit Committee dated 26th April 2019

10. Service Director responsible

Julie Muscroft – Service Director – Legal, Governance and Commissioning
01484 221 000
julie.muscroft@kirklees.gov.uk

11. Appendices

Appendices

Appendix 1 - Amendments 2018/19 (Information only)

Appendix 2 – Council Procedure Rules – track change copy

Appendix 3 – Access to Information Procedure Rules (information only)