

**Name of meeting:** Annual Council (Reference from Corporate Governance and Audit Committee)

**Date:** 19<sup>th</sup> May 2021

**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.

To also provide a summary of changes to the Constitution made by the Monitoring Officer using delegated powers.

<b>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?</b>	NO
<b>Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u>?</b>	NO
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	NO
<b>Date signed off by <u>Strategic Director</u> &amp; name</b>	Yes – Rachel Spencer-Henshall
<b>Is it also signed off by the Service Director for Finance?</b>	Yes – Eamonn Croston
<b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	Yes – Julie Muscroft
<b>Cabinet member <a href="#">portfolio</a></b>	

**Electoral wards affected:** All

**Ward councillors consulted:** NO

**Public or private:** Public

**Has GDPR been considered?** YES

## **1. Summary**

- 1.1 This report is ordinarily an annual report but, due to Annual Council not taking place in 2020, this report will cover any changes proposed as well as any amendments made to the Constitution since 2019.
- 1.2 There are a number of pieces of work ongoing presently which when concluded may impact upon parts of the Constitution. The outcome of those will be the subject of a further report(s) to Council as appropriate
- 1.3 The report will 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.
- 1.4 There have been some changes using delegated authority granted to the Monitoring Officer by Council on 20<sup>th</sup> 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.
- 1.5 There will be some changes to the Constitution to reflect the introduction of the Mayoral Combined Authority for West Yorkshire.

## **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 16 articles that set out how the council operates. There have been amendments made by the Monitoring Officer to correct minor errors and update job titles, and these are shown in Appendix 1.
- 2.03 There is a planned review of the references to legislation and any updates will be made using Monitoring Officer powers of delegation.
- 2.04 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**

- 2.05 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 six amendments made by the Monitoring Officer to address changes required. These are detailed in Appendix 1 and include an amendment to the scheme of delegation to show the changes as a result of the appointment of two new strategic directors replacing the Strategic Director – Economy and Infrastructure.
- 2.06 Council is asked to note that there may 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.
- 2.07 Amendments to the terms of reference for the Health and Wellbeing Board are being considered in a separate report to Council today.

## **PART 4 – RULES OF PROCEDURE**

- 2.08 This section contains eight documents which describe how Councillors and Officers conduct themselves in meetings and make decisions about certain matters. There have been seven amendments made by the Monitoring Officer to address changes required, and these are detailed in Appendix 1.

### **Council Procedure Rules**

- 2.09 **CPR 51** has been added to permit the Council to hold meetings remotely, following the implementation of *The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020*.
- 2.10 A new Protocol is referred to in CPR 51 and was included as a new protocol to the Constitution at the same time as the new CPR 51 (see paragraph 2.36). The ability to continue to hold remote meetings after May 6<sup>th</sup> 2021 remains uncertain.
- 2.11 There is a proposed amendment to **CPR 5** to add the words 'BY MEMBERS OF THE COUNCIL' at the heading of rule 5(I).
- 2.12 There is a proposed amendment to **CPR 10(1)** to add the words 'relevant to its terms of reference.'

The amended rule (changes in italics) would be:

(1) Deputations on issues on which the Council has powers or duties or which affect the area of Kirklees may be received at any meeting of the Council (except the meetings of Annual, Budget or Extra-Ordinary Council) or at any meeting of an appropriate

Committee, or Sub-Committee ***relevant to its terms of reference***. The Mayor/Chair in consultation with the Chief Executive shall have discretion to decide whether or not to hear the deputation.

- 2.13 There is a proposed amendment to **CPR 16(2)** to add the words ‘and Budget Council’.

The amend rule (changes in italics) would be:

(2) A meeting of the Council (except the Annual Meeting ***and Budget Council***) shall terminate at 9.00 p.m. unless a Member moves, prior to 9.00pm, a motion that the meeting shall continue until (i) a later time (to be specified in the motion) or (ii) the conclusion of the business of the meeting. If the motion is seconded it shall be put to the meeting without comment.

- 2.14 There is a proposed amendment to **CPR 38(6)** to add the words ‘and a Member of the Committee/Sub-Committee/ Panel which they are appointed to Chair’.

The amended rule (changes in italics) would be:

(6) The Chair and Deputy Chair of every Committee, Sub-Committee/ Panel and the Lead Member of each Scrutiny Panel shall be a Member of the Council ***and a Member of the Committee/Sub-Committee/ Panel which they are appointed to Chair***.

- 2.15 The Council’s petition scheme is being reviewed and any proposed changes will be the subject of a further report.
- 2.16 This report introduces Amendment CPR 5(6) following work led by the Corporate Governance and Audit Committee, in consultation with Overview and Management Scrutiny and members of all groups at a cross party workshop. It is important to note that this amendment is intended to set out the principle of an annual meeting within the constitution with a focus on local elected members holding the mayor to account and can be amended or clarified further in due course.

The Corporate Governance and Audit Committee considered this report on 22<sup>nd</sup> April 2021 and requested that the original wording proposed to reflect this principle in the report on 22<sup>nd</sup> April be amended. The wording set out below was circulated to the members of the committee as well as ex officio members as alternative drafting. There were no comments back to amend the revised drafting.

It is proposed that CPR 5 be amended by adding a new 5(6) as follows: ***“In addition to the Annual Meeting of the Council (CPR1) and the ordinary meetings (CPR5 (1)) there shall be [at least] one meeting of Council convened each Municipal Year at which the mayor from time to time of the West Yorkshire Combined Authority (WYCA) shall attend to meet with Kirklees Councillors as an opportunity to discuss and report back on their work programme and outcomes.*”**

***The meeting will cover procedural items at (a) - (c), as well as (e) and (j), listed at CPR 5 (1) and will set aside a period of at least 45 minutes for questions from members to the WYCA Mayor. Questions will be allocated on a proportional basis between groups, in a manner to be determined by the Kirklees Mayor and the Chief Executive. In addition any agenda items agreed by the Kirklees Mayor and Chief Executive of Kirklees Council with the Mayor of WYCA will be discussed."***

- 2.17 Members are asked to note that a number of typos and formatting errors have also been corrected in the Council Procedure Rules.

Access to Information Procedure Rules

- 2.18 There has been a minor amendment to the Rules, under the delegated powers of the Monitoring Officer, and this is detailed in Appendix 1.

2.19 Budget and Policy Framework Rules

There are no proposed amendments to these rules.

2.20 Executive Procedure Rules

There have been minor amendments to reflect changing job titles. These are listed in Appendix 1.

2.21 Financial Procedure Rules

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

2.22 Contract Procedure Rules

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

2.23 Overview and Scrutiny Procedure Rules

There are no proposed amendments to these rules.

2.24 Officer Employment Procedure Rules

There are no proposed amendments to these rules.

**PART 5 – CODES and PROTOCOLS**

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

2.26 Members Code of Conduct

There are presently no proposed amendments to the Code of Conduct, but there is some ongoing work resulting from the recent consultation

survey that was undertaken by the Monitoring Officer, as well as from the LGA's proposed model Code of Conduct.

An interim report was provided in March 2021 to the Standards Committee that made reference to the survey results and the LGA's Model Code of Conduct.

It is anticipated that a further report will be made to the Standards Committee over the summer, who will then make recommendations to Corporate Governance and Audit Committee on any proposed changes.

Any proposed changes agreed by Corporate Governance and Audit Committee will be brought before Council for consideration.

2.27 Monitoring Officer Protocol

There are no proposed amendments to this protocol.

2.28 Protocol for Planning Committees and Sub-Committees

There are no proposed amendments to this protocol.

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

It is proposed that this will be reviewed and will be referred initially to the Standards Committee, with any proposed changes for consideration. Any changes recommended by the Standards Committee will be put before the Corporate Governance and Audit Committee and on to Council as appropriate.

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

It is proposed that this will be reviewed and any recommended changes will then be presented in a further report to the Corporate Governance and Audit Committee and then to Council as appropriate.

2.31 Officers Code of Conduct

This will be subject to a review with a further report to be put before the Corporate Governance and Audit Committee and then to Council as appropriate.

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

There are no proposed amendments to this protocol.

2.33 Licensing and Safety Committee Protocol

There are no proposed amendments to this protocol.

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

One of the areas that was featured in the recent standards survey concerned perceptions and experiences of officers in dealing with Councillors. When the survey responses are considered fully by the Standards Committee this protocol may need to be reviewed.

#### 2.35 Safeguarding Protocol

There are no proposed amendments to this protocol.

#### 2.36 Protocol for Online Meetings

This Protocol was added to the Constitution at the same time as the new Council Procedure Rule 51 (see 2.09-2.10 above) by the Monitoring Officer using delegated authority. There are no proposed amendments to this protocol, but members should be aware that changes may need to be made, depending on whether the powers to hold virtual meetings continue after May 6<sup>th</sup>.

#### 2.37 Concurrent Functions Protocol

This protocol is proposed to be added to the Constitution following the introduction of the Mayoral Combined Authority for West Yorkshire. This was considered here at the last meeting of this Committee and by Cabinet. When it is signed it will be added to the Constitution. The West Yorkshire Combined Authority will be considering the protocol on 22 April 2021.

At the meeting of WYCA on the 22 April 2021, it was resolved to adopt the 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 Climate Change and Air Quality**

N/A

#### **3.5 Improving Outcomes for Children**

N/A

#### **3.6 Other implications (eg Legal/Financial or Human Resources)**

N/A

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

Various officers in Legal, Governance and Commissioning have been consulted.

Standards Committee has been briefed on the outcome of the consultation survey and understands that further work needs to be completed before any proposals for amendments to the Code of Conduct can be properly considered.

Corporate Governance and Audit Committee considered this report at its meeting on 22<sup>nd</sup> April 2021 and recommended it to Council subject to the further work to finalise the drafting of the proposed new CPR 5(6) set out above which was delegated to the Chair of the Committee to do.

#### **5. Next steps and timelines**

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

#### **6. Officer recommendations and reasons**

That Council:-

- a. Notes the changes made to the Constitution in 2019-2021 listed in Appendix 1 and note the addition to the constitution of the Concurrent powers protocol referred to in paragraph 2.37.
- b. Approve the proposed changes to the Councils constitution as set out in paragraphs 2.11, 2.12, 2.13, 2.14 and 2.16 and the accompanying relevant Appendices.
- c. Notes the further work being undertaken to keep the Council's Constitution under review.
- d. Notes the proposed further work in respect of standards and the Code of Conduct.
- e. Delegate authority to the Service Director – Legal, Governance and Commissioning to make appropriate amendments to the constitution which may be 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



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

Report to Corporate Governance and Audit Committee dated 22<sup>nd</sup> April 2021.

Report to Standards Committee dated 29<sup>th</sup> March 2021.

## **10. Service Director responsible**

Julie Muscroft – Service Director – Legal, Governance and  
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## **11. Appendices**

**Appendix 1 - Amendments 2019/2021 (Information only)**

**Appendix 2 – Track change copy of the Council Procedure Rules**

## APPENDIX 1

### Constitutional amendments 2019-2021

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

Amendment	Authorisation	Date amended
<b>PART 3 Responsibility for Functions</b>		
Part 3 Section B amended	Monitoring Officer Delegation	12 <sup>th</sup> June 2019
Part 3.4 Section C amended – changes to portfolio responsibilities	Approved at Annual Council	7 <sup>th</sup> August 2019
Part 3.4 Section C amended – change to portfolio holder public health responsibilities	Monitoring Officer Delegation	16 <sup>th</sup> April 2020
Part 3.4 Section C amended – change to portfolio holder's responsibilities	Monitoring Officer Delegation	1 <sup>st</sup> May 2020
Part 3.4 Section C amended – changes to portfolio holders	Monitoring Officer Delegation	18 <sup>th</sup> January 2021
Part 3.4 Section F amended	Monitoring Officer Delegation	
<b>PART 4 Rules of Procedure</b>		
Part 4.1 Council Procedure Rules amended	Approved at Annual Council	22 <sup>nd</sup> May 2019
Part 4.1 Council Procedure Rules amended – virtual meetings	Monitoring Officer Delegation	1 <sup>st</sup> May 2020, - - 7 <sup>th</sup> July 2020
Part 4.2 Access to Information Procedure Rules	Approved at Annual Council	1 <sup>st</sup> April 2019
Part 4.4 Executive Procedure Rules amended	Monitoring Officer Delegation	7 <sup>th</sup> April 2021
Part 4.6 Financial Procedure Rules amended	Approved at Annual Council	11 <sup>th</sup> June 2019
Part 4.7 Contract Procedure Rules minor amendments	Monitoring Officer Delegation	11 <sup>th</sup> June 2019
<b>PART 5 Codes and Protocols</b>		
Part 5.1 Code of Conduct	Approved at Annual Council	30 <sup>th</sup> May 2019
Part 5.11 – protocol for online meetings introduced	Monitoring Officer Delegation	12 <sup>th</sup> May 2020
Part 5.11 – protocol for online meetings amended	Monitoring Officer Delegation	1 <sup>st</sup> June 2020