

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

Date: 13th May 2022

Title of report: 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.

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?	NO
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)?</u>	NO
The Decision - Is it eligible for call in by Scrutiny?	NO
Date signed off by <u>Strategic Director</u> & name	Yes – Rachel Spencer-Henshall 04.05.22
Is it also signed off by the Service Director for Finance?	Yes – Eamonn Croston 04.05.22
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Yes – Julie Muscroft 04.05.22
Cabinet member portfolio	Cllr Paul Davies

Electoral wards affected: All

Ward councillors consulted: NO

Public or private: Public

Has GDPR been considered? YES

1. Summary

- 1.1 This report will cover any changes proposed as well as any amendments made since 2021, both on the authority of Council and by the Monitoring Officer using delegated powers.
- 1.2 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.
- 1.3 There have been some changes using delegated authority granted to the Monitoring Officer by Council on 20th 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.

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.
- 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 Members are asked to note that Cabinet approved the Cross Council Corporate Safeguarding Policy on the 8th of March, with the recommendation that this be added to the Policy Framework in Article 4 and that Council consider this. [2022-03-08 Cabinet Report Corporate Safeguarding Policy.pdf \(kirklees.gov.uk\)](#). Members are asked to agree that in the event that the Policy is adopted by Council that Article 4 be amended to add the Policy into the Policy Framework.

PART 3 - RESPONSIBILITY FOR FUNCTIONS

- 2.05 This part details the council's cabinet's, committees' and other groups' responsibilities. This section also contains each individual Cabinet Member's specific responsibilities.
- 2.06 There are a number of references to Kirklees Neighbourhood Housing in Part 4 of Section C as well as elsewhere in the constitution which need to be tidied up. These are drafting amendments which the Monitoring Officer

will continue to pick up using delegated authority.

- 2.07 There have been three amendments made by the Monitoring Officer and by Council to address changes required. These are detailed in Appendix 1 and include an amendment to the scheme of delegation (Section F) to reflect the changes following the appointment of two new strategic directors replacing the former Strategic Director – Economy and Infrastructure.
- 2.08 It is proposed that the wording of Section F be clarified to remove any ambiguities about references within it to 'Section A'. This can be done by way of note in the introduction that links to 'Section A'.
- 2.09 The proposed wording would add an extra paragraph in the 'Introduction' to Section F as follows:

13. For the purposes of this Scheme of Delegation, any reference to 'Section A' are references to Part 3.2 of the Constitution – Responsibility for Functions [Constitution Section A \(kirklees.gov.uk\)](http://kirklees.gov.uk)

PART 4 – RULES OF PROCEDURE

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

Council Procedure Rules

- 2.11 It is proposed that **CPR 13(2)(v)** be removed and replaced with the following:

The Cabinet Portfolios will be listed on the agenda. This item will provide the opportunity for questions to be asked of the Cabinet Members listed.

This is to simplify the current CPR, which is impractical to apply. The current CPR does not provide an opportunity to ask questions to portfolio holders.

- 2.12 As with paragraph 2.06 above it is proposed that **CPR 13(4)** be amended to remove the reference to Kirklees Neighbourhood Housing at (ii)(a).

This is to reflect the fact that Kirklees Neighbourhood Housing is no longer in existence.

- 2.13 It is proposed that **CPR 13(4)(iii)** be amended to remove the words '*in alphabetical order*'.

This is to remove any presumption that questions will be dealt with in alphabetical order. This agenda item is very often only considered late in Council meetings and as a result is not always allowed the full time allowed for questions. This will give Councillors the ability to ask questions of all Chairs without being tied to alphabetical order in what may be a short period of time allowed for questions.

- 2.14 It is proposed to divide **CPR 14(1)** into two paragraphs and to then renumber the remaining ones.

The proposed amendment is as follows:

Submission of Motions

- (1) *Every notice of motion (with the exception of those proposed in accordance with Rules 15, 18(16) and (19) shall be submitted in writing and delivered to the Service Director - Legal, Governance and Commissioning by 9.00 a.m. on the sixth working day before the date of the Council meeting. Each motion must be signed by not less than two Members of the Council. Motions (including re-submitted Motions pursuant to CPR 16(5)) will only be accepted for the next scheduled Council meeting (except Annual and Budget Councils) from 10.00am onwards following the day of the previous Council meeting.*
- (2) *Any motions re-submitted will be listed on the agenda in the same order as they were listed for the previous meeting. Any further (new) motions will be listed after re-submitted Motions. The Chief Executive, in consultation with the Mayor, shall have authority to re-order the Motions as appropriate. The Chief Executive will inform Group Leaders when such action is being taken.*

This is to make the CPR easier to follow.

- 2.15 It is proposed that **CPR 16(5)** be moved to CPR 14, as 14(3).

This CPR fits better in rule 14. CPR 16(5) says :

- (5) Any Motion given under Rule 14 not considered at an Ordinary Council meeting due to time constraints shall automatically be deemed withdrawn unless the Service Director – Legal, Governance and Commissioning receives written confirmation (from the Member or Group who submitted the Motion) by 5pm on the fifth working day following that Council meeting that the Motion should be rolled over for consideration at the next Ordinary Council meeting.

- 2.16 It is proposed that **CPR 35(7)** be amended to clarify that substitute members need to be from the same political group.

The proposed amendment would add the wording in bold to the existing CPR:

- (7) *At the Annual Meeting of the Council a panel of substitute Members will be established, to be available to replace Members **of the same political group** on Committees, and Sub-Committees, (except the Health and Well-being Board, the Overview and Scrutiny Management Committee, the Overview and Scrutiny Panels, District Committees, Employee Relations Sub Committee, the Standards Committee and the Standards Sub-Committee) at each meeting during the municipal year as and when required. The names of those Members included on the panel of substitutes will be placed on every notice for a relevant Committee, or Sub-Committee meeting.*

This is to provide clarity on the substitution process, to make it clear that a substitute must be from the same political group.

- 2.17 **CPR 51** was previously 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*.
- 2.18 The new Protocol is referred to in CPR 51 and was included as a new part of the Constitution at the same time as the new CPR 51.
- 2.19 It is proposed that, although the Regulations that permitted remote meetings are no longer in force, this CPR be retained, as some meetings are still held remotely, such as Licensing Panel meetings. There is also an on-going debate about Local Authorities and others having the ability to hold meetings remotely.
- 2.20 The proposed amendments to the Council Procedure Rules are shown in track change in Appendix 2.

Access to Information Procedure Rules

- 2.21 There has been a minor amendment to the Rules, under the delegated powers of the Monitoring Officer, and this is detailed in Appendix 1.
- 2.22 It is proposed that the wording at 26.1(c) is amended from:

(c) the member has a prejudicial interest in the matter to which the document relates, as defined in the Council's Code of Conduct for Councillors (see Part 5 of this Constitution).

to:

(c) the member has an interest in the matter to which the document relates, as defined in the Council's Code of Conduct for Councillors (see Part 5 of this Constitution).

2.23 Budget and Policy Framework Rules

There are no proposed amendments to these rules.

2.24 Executive Procedure Rules

There are no proposed amendments to these rules.

2.25 Financial Procedure Rules

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

2.26 Contract Procedure Rules

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

2.27 Overview and Scrutiny Procedure Rules

There are no proposed amendments to these rules.

2.28 Officer Employment Procedure Rules

There are no proposed amendments to these rules.

PART 5 – CODES and PROTOCOLS

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

2.30 Three amendments have been made to Part 5 which are set out in Appendix 1.

2.31 The members of Code of Conduct was updated and approved by Council.

2.32 A protocol for the Exercise of Concurrent Functions was introduced in June 2021 and was later amended by the Monitoring Officer using delegated powers.

2.33 Members Code of Conduct

There are presently no proposed amendments to the Code of Conduct, but there is some ongoing work resulting from the consultation survey and the subsequent workshops that were held.

Should this result in any proposed amendments, these will be considered by Standards Committee, before being considered at Corporate Governance and Audit. One current proposal to introduce a 'fast track' route into the standards process is currently being considered, with a view to reporting to the Standards Committee initially on any proposals for change.

2.34 Monitoring Officer Protocol

There are no proposed amendments to this protocol.

2.35 Protocol for Planning Committees and Sub-Committees

There are no proposed amendments to this protocol.

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

There are no proposed amendments to this protocol.

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

There are no proposed amendments to this protocol.

2.38 Officers Code of Conduct

There are no proposed amendments to this protocol.

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

There are no proposed amendments to this protocol.

2.40 Licensing and Safety Committee Protocol

There are no proposed amendments to this protocol.

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

There are no proposed amendments to this protocol.

However, the working relationship between members and officers was a significant theme that came up in the Standards consultation survey and was explored in more detail at the recent workshops.

It is proposed that this protocol is reviewed and any proposed amendments will be considered by Standards Committee, before being considered at Corporate Governance and Audit.

2.42 Safeguarding Protocol

There are no proposed amendments to this protocol.

2.43 Protocol for Online Meetings

This Protocol was added to the Constitution as a result of the legislative changes on remote meetings made in response to the Covid 19 lockdown, so that Council business could still be transacted.

Whilst the protocol is no longer applicable to many meetings, some are still held remotely, such as Licensing Panel meetings (which are held using different legislation), and it is proposed to retain this, rather than remove it.

2.44 Concurrent Functions 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 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 have been consulted.

5. Next steps and timelines

- 5.1 This will be considered by Annual Council on May 25th May 2022. Any feedback, comments or recommendations from this committee will be included in the report to Annual Council.
- 5.2 Any amendments agreed by Council will be made to the Constitution.

6. Officer recommendations and reasons

That it be recommended that CGA:-

- a. Notes the changes made to the Constitution in 2021-2022 listed in Appendix 1 and notes the Cabinet approval of the Safeguarding Policy, set out in paragraph 2.04.
- b. Approves the amendment to the Policy Framework at paragraph 2.04 in the event that Council considers and adopts the Council Corporate Safeguarding Policy referred to in that paragraph.
- c. Approves the proposed changes to the Councils constitution as set out in paragraphs 2.08, 2.11, 2.12, 2.13, 2.14, 2.15, 2.16, and 2.22 and the accompanying relevant Appendices.
- d. Notes the further work proposed to keep the Council's Constitution under review.
- e. Notes the proposed further work in respect of standards.
- f. Recommends to Council that they note and approve (as applicable) the above recommendations and 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

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9. Background Papers and History of Decisions

10. Service Director responsible

Julie Muscroft – Service Director – Legal, Governance and Commissioning
01484 221 000

11. Appendices

Appendix 1 - Amendments 2021-2022 (Information only)

Appendix 2 – Track change copy of the Council Procedure Rules

APPENDIX 1

Constitutional amendments 2021-2022

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
PART 3 Responsibility for Functions		
Part 3.3 Section B amended – HWB ToR amended	Approved at Annual Council	16 th June 2021
Part 3.4 Section C amended – changes to portfolio responsibilities	Approved at Annual Council	8 th June 2021
Part 3.7 Scheme of Delegation to Officers – Section F	Monitoring Officer Delegation	9 th February 2022
PART 4 Rules of Procedure		
Part 4.1 Council Procedure Rules amended	Approved at Annual Council	16 th June 2021
Part 4.2 Access to Information Procedure Rules	Monitoring Officer Delegation	13 th July 2021
Part 4.6 Financial Procedure Rules amended	Approved at Annual Council	8 th June 2021
Part 4.7 Contract Procedure Rules amended	Monitoring Officer Delegation	8 th June 2021
PART 5 Codes and Protocols		
Part 5.1 Code of Conduct – LGA model code	Approved at Council	15 th December 2021
Part 5.12 – Protocol for the Exercise of Concurrent Functions and Associated Statutory Consents introduced	Approved by CGA	16 th June 2021
Part 5.12 – Protocol for the Exercise of Concurrent Functions and Associated Statutory Consents amended	Monitoring Officer Delegation	14 th July 2021