

REPORT TITLE: Proposed Amendments to the Council's Constitution

Meeting:	Corporate Governance and Audit Committee (Reference to Annual Council)
Date:	10th May 2024
Cabinet Member (if applicable)	Cllr Paul Davies
Key Decision Eligible for Call In	No
<p>Purpose of Report</p> <p>To set out proposed changes to the Council's Constitution as described in paragraph 2 and as set out in more detail in the report which show the proposed amendments.</p> <p>To also provide a summary of changes to the Constitution made by the Monitoring Officer using delegated powers since Annual Council 2023 in the Appendix.</p>	
<p>Recommendations</p> <p>That CGA:-</p> <ul style="list-style-type: none"> • Notes the changes made to the Constitution in 2023-2024 listed in Appendix 1 • Approves the proposed changes to the Constitution set out in section 2 of the report • Notes that work will continue to keep the Constitution under review • 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 <p>Reasons for Recommendations</p> <ul style="list-style-type: none"> • 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, as failure to do so could lead to challenges, unnecessary procedural delays and less transparency in the Council's democratic process 	
Date signed off by <u>Strategic Director</u> & name	Rachel Spencer-Henshall – 1st May

<p>Is it also signed off by the Service Director for Finance?</p> <p>Is it also signed off by the Service Director for Legal Governance and Commissioning?</p>	<p>Isabel Brittain – 1st May</p> <p>Julie Muscroft – 1st May</p>
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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 2023, 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.

ARTICLE 6 – THE OVERVIEW AND SCRUTINY FUNCTION

- 2.03 It is proposed to remove responsibility for Flood Risk Management Strategy from OSMC and allocate responsibility to Environment and Climate Change Scrutiny Panel. This is because the revised remit of OSMC now includes corporate matters and as a result it is felt more appropriate to include flood risk management in the Environment and Climate Change Panel.

6.1 Overview and Scrutiny Management Committee

- 6.1.1 *The Council will appoint the Overview and Scrutiny Management Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations under Section 32 of that Act and any subsequent legislation conferring overview and scrutiny functions, including that relating to scrutiny of health service provision. The Management Committee will also co-ordinate, oversee and manage the performance of those functions carried out by overview and scrutiny panels. The Overview and Scrutiny Management Committee will have responsibility for the statutory requirements in relation to scrutiny of crime and disorder matters ~~and Flood Risk Management Strategy.~~*

The Council will appoint the Chair of Overview and Scrutiny. The Chair of Overview and Scrutiny shall not be the Lead Member of a standing panel. The Chair of Overview and Scrutiny will be from a different political group from that of the Leader of the Council.

- 2.04 It is proposed to update Standing Scrutiny Panels and remits in accordance with Scrutiny Structure as follows:

6.2.1

Panel	Scope
Environment and Climate Change	<i>All matters, Cabinet decisions, service provision (in particular those services that the relevant Cabinet Member(s) is responsible for), relating to the Environment, Climate Change, Highways, Streetscene and Culture and activities relating to partnerships and partner bodies within the portfolio. <u>Responsibility for statutory requirements in relation to Flood Risk Management Strategy</u></i>
Health and Adult Social Care	<i>As above in relation to service provision for adults including Public Health and activities relating to Health partner bodies. The Panel's role includes the specific responsibilities of the Council for scrutiny of health matters (see also 6.2.2 below)</i>
Children's	<i>As above in relation to service provision for children and all matters considered by partnerships and partner bodies within the portfolio</i>
Growth and Regeneration	<i>All matters, Cabinet decisions, service provision (in particular those services that the relevant Cabinet Member(s) are responsible for) relating to skills, growth, regeneration and housing</i>

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.

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.

Council Procedure Rules

2.07 It is proposed that **CPR9** be amended as follows:

Presentation of Petitions

- (1) *Petitions on issues on which the Council has powers or duties or which affect the area of Kirklees may be presented by a Member or any member of the public to any meeting of the Council (except the meetings of Annual, Budget Revised June 2023 or Extra-ordinary Council) or an appropriate Committee, Sub-Committee or Panel meeting.*
- (2) *When a petition is received at a Council meeting the petitioner shall have a maximum of one minute to present their petition and no discussion shall take place on the item. There shall be no response at the meeting. The Mayor/Chair will acknowledge receipt.*

Referral of Subject Matter

- (3) *The Mayor will direct that the subject matter of a petition be referred to an appropriate Service Director for investigation and report to Cabinet or an appropriate Committee. Once a petition has been submitted additional signatories cannot be subsequently added.*

These amendments confirm the current processes which are explained to those submitting petitions and as set out in the Petition scheme.

2.08 It is proposed that **CPR 9a** be amended as follows:

In accordance with the Council's Petition Scheme (as approved by Cabinet on 6 June 2012), if a validated petition contains more than 3000 signatures, the Petition Organiser (or their representative) may be permitted to present their petition to a future meeting of Council, subject to the validation of the petition. If the matter is listed for a Petition Debate the Petition Organiser (or their representative) will be permitted a maximum of five minutes to present their petition to the meeting, prior to the Council debating the matter (for a maximum of fifteen minutes). ~~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.~~

This amendment confirms the current process which is explained to those submitting petitions and as set out in the Petition scheme.

A Council debate shall not be listed in relation to matters upon which the Council is currently undertaking a consultation process.

This clarifies that petitions are not heard during a consultation process.

A petition may not be debated if a similar subject matter has previously been listed for debate in the previous 6 months

This amendment proposes that petitions relating to similar subject matters are not considered more than once in a six-month period. This makes them consistent with the treatment of deputations on similar matters which are not considered more than once in a six-month period.

- 2.09 It is proposed that **CPR10** be amended by the addition of the following to paragraph (9):

Size of Deputation and Speech

(9) The deputation shall not exceed five persons and the speech shall not exceed five minutes. Video/Slide or audio presentations are not permitted when presenting a deputation.

(10) When a deputation is received at a Council meeting, no discussion shall take place on the item but the relevant Cabinet Member shall respond to the deputation. The Cabinet Member's response shall not exceed five minutes.

(11) The Mayor shall have the discretion to allow any other Member of the Council to respond to a deputation in exceptional circumstances. For example, in order to respond to personal attacks made during the course of a deputation. Such response shall not exceed five minutes.

This reflects the current practice.

- 2.10 It is proposed that **CPRs 9 and 10** are amended to make them consistent with **CPR11** in respect of the need to be resident or a business owner in Kirklees in order to be able to present a petition or deputation.

It is proposed that the wording in paragraph 2.11 below be used in paragraph 9(1) and paragraph 10(1).

- 2.11 It is proposed that **CPR 11(1)** be amended by the addition of the following to paragraph (1)(a), as follows:

(1) (a) *Any Member of the public resident or operating a business in Kirklees and present at the meeting*

may, subject to the provisions of this Rule, ask the Leader, or any Members of Cabinet, a question on any issue which comes within that individual's area of responsibility and which affects the area of Kirklees.

2.12 It is proposed to amend **CPR 11(6)** by adding the following:

Answers to Questions

- (6) *A written answer will be provided to a written question and will be given to the questioner and to Councillors the day before the meeting. The question and answer will then be taken as read at the meeting itself and need not be read out.*

A copy of all written questions and written answers circulated at the meeting will be attached to the published agenda for the meeting.

Additional Questions

A member of the public who has put a written question may, if they are in attendance and, with the consent of the Chair, ask one supplementary question relating to the response on the same subject

The Member to whom the question has been put may nominate another Member to answer (if that Member agrees).

The Member to whom the question has been put may not refuse to answer the question.

2.13 It is proposed to amend **CPR11(7)** as follows:

Recording in Minutes

- (7) *The Service Director - Legal, Governance and Commissioning shall record in the Minutes of the meeting the question(s) and the name of the respondent. Supplementary questions and answers will be recorded as part of the webcast and held on the public webcast facility for a period of 12 months.*

2.14 It is proposed that **CPR 12** be amended to allow the provisions for questions by members of the public in **CPR 11(6) & (7)** to be applied to the provisions for Elected Members. **CPR 12** to be amended as follows:

12. Written Questions by Members

The exemptions as set out at CPR 11 (3) also apply to this Rule (CPR 12).

The following provisions shall apply to written questions by Members which must be received by the Service Director - Legal, Governance and Commissioning by three clear working days before the Council meeting.

- (1) *Any member of Council may put a written question to the Leader of the Council, a member of the Cabinet, a Chair of a Committee, Sub-Committee or*

Panel or a spokesperson of a Joint Committee or External Body, as defined at Rule 13 (4). ~~Subject to the Mayor's/Chair's discretion, a 3 minute time limit applies for individual questions to be put.~~

- (2) The Mayor/Chair in consultation with the Chief Executive may determine that a question shall not be put/answered where the question appears defamatory, vexatious or requires the disclosure of confidential or exempt information.
- (3) A written answer will be provided to a written question and will be given to the questioner and to Councillors the day before the meeting. The question and answer will then be taken as read at the meeting itself and need not be read out.~~Following consideration of any questions arising from Rule 12 (1) above, questions will be timetabled in the order which they are received by the Governance Team.~~
- ~~(4) If a Member who has submitted a question in accordance with Rule 12 is not present at the meeting at the time when the question(s) submitted is/are due to be put to a Member the question(s) will fall.~~
- ~~(5) The Member to whom the question has been put shall give an oral answer at the Council meeting or may nominate at any time before or during a meeting another Member to answer if that Member agrees.~~
- ~~(6)(4) An answer may will take the form of:~~
- ~~(a) a direct oral answer; or~~
- ~~(b) a reference to a publication of the Council which contains the desired information; or~~
- ~~(ca) a written question and answer circulated to all Members within 7 days of the Council attached to the published agenda for the meeting.~~
- ~~(7) The period allowed for written questions at any one meeting shall not exceed 30 minutes. A 5 minute time limit shall apply for individual responses to questions. The same time limit shall also apply to individual responses to supplementary questions, subject in both cases to the Mayor's discretion to increase the time allowed for responses in appropriate circumstances.~~
- ~~(8)(5) Where written questions are not addressed within the above timescale, then the question will be answered by written reply, and the response shall be copied to all Members of the Council, unless the Member asking the question specifically requests (within 48 hours of the meeting concluding) that the question is referred to the next relevant Cabinet / Committee / Sub-Committee / Panel meeting for reply. Any such questions will only be responded to if the Member who put forward the original question to the Council meeting is in attendance at the Cabinet / Committee / Sub-Committee / Panel meeting to ask the question.~~
- ~~Written questions to spokespersons of Joint Authorities or any Other Bodies not dealt with within the above timescale will be answered by means of a written reply within 7 days of the meeting and be circulated to all Members of the Council.~~
- ~~(9)(6) When an answer to a written question has been given, the Member who asked it may, if they are in attendance and, with the consent of the Chair, ask one supplementary question relating to the response on the same topic. ~~Such a supplementary question must follow straight on from the Member's answer~~~~

~~to the original question. In circumstances where the responding Councillor has elected, pursuant to Rule 12(6)(c), to provide a written answer to a question, no supplementary question will be permitted. Subject to the Mayor/Chair's discretion a 3 minute time limit applies for individual supplementary questions to be put.~~

~~(10)(7)~~ A written question, as well as any supplementary question, must be relevant to the Terms of Reference or powers or duties of Cabinet or of the relevant Committee / Sub-Committee / Panel / Joint Committee or External Body or affect the area of Kirklees and should not be of a personal nature or one which is defamatory, offensive, frivolous, repetitive or vexatious.

~~(11)(8)~~ The Service Director - Legal, Governance and Commissioning shall record in the Minutes of the meeting the question(s) and the name of the Respondent member. ~~This will not include any supplementary question and the answer thereto.~~ Supplementary questions and answers will be recorded as part of the webcast and held on the public webcast facility for a period of 12 months.

2.15 It is proposed that **CPR 36(1)** be amended to change member speaking rights as follows:

(1) Subject to paragraphs (2) and (3) below a Councillor who is not a Member of a Committee, Sub-Committee, or Panel may attend any meeting as an observer. Speaking rights for such Councillors attending as observers will be at the discretion of the Chair ~~That Councillor shall have the same speaking rights as any Member of that Committee Sub-Committee or Panel~~

This is to ensure better management of the meetings.

2.16 It is proposed that **CPR 37** be amended so that permission to speak will be at the Chair's discretion.

37. Attendance by Members of the Public - Permission to Speak

Any member of the public attending a Committee, Sub-Committee, or Panel (or any other meeting open to the public) may, with the permission at the discretion of the Mayor/Chair, speak on any item of business to be transacted at that meeting. This speaking right shall not apply to persons who have presented a deputation on the same subject matter at the same meeting. That person shall not be permitted to remain in the meeting when consideration is being given to confidential or exempt information.

2.17 Access to Information Procedure Rules

There are no proposed amendments to these rules.

2.18 Budget and Policy Framework Rules

There are no proposed amendments to these rules.

2.19 Executive Procedure Rules

There are no proposed amendments to these rules.

2.20 Financial Procedure Rules

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

2.21 Contract Procedure Rules

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

2.22 Overview and Scrutiny Procedure Rules

There are no proposed amendments to these rules.

2.23 Officer Employment Procedure Rules

There are no proposed amendments to these rules.

PART 5 – CODES and PROTOCOLS

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

2.25 Members Code of Conduct

There are presently no proposed amendments to the Code of Conduct.

2.26 Monitoring Officer Protocol

There are no proposed amendments to this protocol.

2.27 Protocol for Planning Committees and Sub-Committees

A number of changes were made to these during the year to reflect the changes to Planning Committee arrangements which are referred to in Appendix 1. There are no further proposed amendments to this protocol at this time.

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

There are no proposed amendments to this protocol.

2.29 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.

2.30 Officers Code of Conduct

There are no proposed amendments to this protocol.

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

There are no proposed amendments to this protocol.

2.32 Licensing and Safety Committee Protocol

There are no proposed amendments to this protocol.

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

There are no proposed amendments to this protocol.

2.34 Safeguarding Protocol

There are no proposed amendments to this protocol.

2.35 Protocol for Online Meetings

There are no proposed amendments to this protocol.

2.36 Concurrent Functions Protocol

There are no proposed amendments to this protocol.

3. Implications for the Council

3.1 Council Plan

N/A

3.2 Financial Implications

N/A

3.3 Legal Implications

N/A

3.4 Other (e.g. Risk, Integrated Impact Assessment or Human Resources)

N/A

4. Consultation

A number of relevant officers have been consulted.

5. Engagement

None

6. Options

6.1 Options Considered

We are required to review the constitution. Any proposed amendments where there may be options are set out in the report.

6.2 Reasons for Recommended Option

As above.

7. Next steps and timelines

7.1 This report and any recommendations made by CGA will be considered by Annual Council on May 22nd 2024. Any feedback, comments or recommendations from this committee will be included in the report to Annual Council.

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

8. Contact officer

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9. Background Papers and History of Decisions

None

10. Appendices

Appendix 1 - Amendments 2023-2024 (Information only)

11. Service Director responsible

Julie Muscroft – Service Director – Legal, Governance and Commissioning
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APPENDIX 1

Constitutional amendments

2023-2024 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 2 Articles of the Constitution		
Part 2	Approved at Annual Council 24 May	3 rd July 2023
Part 6	Approved at Annual Council 24 May	May 2024
PART 3 Responsibility for Functions		
Part 3 Section B	Monitoring Officer Delegation	24 th April 2023
Part 3 Section B	Approved at Annual Council 24 May	25 th May 2023
Part 3 Section B	Approved at Council 15 November	22 nd November 2023
Part 3 Section B	Monitoring Officer Delegation	15 th February 2024
Part 3 Section C Responsibility for Executive Functions	Approved at Annual Council 24 May	25 th May 2023
Part 3 Section C Responsibility for Executive Functions	Approved at Annual Council 24 May	25 th May 2023
Part 3 Section C Responsibility for Executive Functions	Approved at Council 13 September	18 th September 2023
Part 3 Section C Responsibility for Executive Functions	Amendment from Cabinet	20 th September 2023
Part 3 Section C Responsibility for Executive Functions	Amendment from Leader	9 th October 2023
Part 3 Section C Responsibility for Executive Functions	Monitoring Officer Delegation	21 st December 2023

Part 3 Section C Responsibility for Executive Functions	Monitoring Officer Delegation	3 rd January 2024
Part 3 Section C Responsibility for Executive Functions	Monitoring Officer Delegation	4 th April 2024
Part 3 Section F	Approved at Annual Council 24 May	3 rd July 2023
Part 3 Section F	Monitoring Officer Delegation	9 th October 2023
Part 3 Section F	Approved at Council 15 November	22 nd November 2023
PART 4 Rules of Procedure		
Part 4.1 Council Procedure Rules	Approved at Annual Council 24 May	25 th May 2023
Part 4.2 Access to Information Procedure Rules	Approved at Annual Council 24 May	25 th May 2023
Part 4.2 Access to Information Procedure Rules	Monitoring Officer Delegation	25 th January 2024
Part 4.6 Financial Procedure Rules	Approved at Annual Council 24 May	25 th May 2023
Part 4.7 Contract Procedure Rules	Approved at Annual Council 24 May	25 th May 2023
PART 5 Codes and Protocols		
Part 5	Approved at Council 15 November	22 nd November 2023
Part 5.3 Protocol for Planning Committee and Sub- Committees	Approved at Council 15 November	22 nd November 2023
Part 5.7 Protocol for Public Speaking at Planning Committee	Monitoring Officer Delegation	15 th February 2024
PART 6 Members' Allowances Scheme		
Minor amendment	Monitoring Officer Delegation	4 th April 2023
Minor amendment to salaries	Monitoring Officer Delegation	14 th November 2023
Allowances updated	Monitoring Officer Delegation	4 th April 2024