

Report for Resolution

Report to Cabinet
16 March 2011
Report of Head of law and governance
Subject Changes to the council's constitution

Item
7

Purpose

To ask members to consider factual changes to the constitution, review the monitoring officer arrangements and a proposal to ask the constitution working party to carry out a fundamental review of the council's constitution in 2011-12 and make appropriate recommendations to cabinet.

Recommendations

To:

- (1) approve the revised scheme of delegations (appendix 8) and recommend it to Council for adoption as appropriate.
- (2) recommend to Council that it:
 - (a) appoints Philip Hyde, head of law and governance, as the monitoring officer, in accordance with Section 5 of the Local Government and Housing Act 1989, with David Johnson, Victoria McNeill and Chris Skinner, nominated officers at nplaw, to act as deputy monitoring officers;
 - (b) approves the changes to the scheme of delegations (appendix 8 of the constitution) for adoption;
 - (c) approves the approach to refer further changes to the constitution working party as set out in the report;
 - (d) ask the head of law and governance to amend the constitution accordingly.

Financial Consequences

There are no direct financial consequences arising from this report, other than the resources required to hold meetings of the working party.

Risk Assessment

There are no direct risk associated with this report.

Strategic Priority and Outcome/Service Priorities

The report helps to meet the strategic priority "Aiming for excellence – ensuring the Council is efficient in its use of resources, is effective in delivering its plans, is a good employer and communicates effectively with its customers, staff and partners" and the statutory duty to maintain the council's constitution.

Cabinet Member: Councillor Waters – Resources, performance and shared services

Ward: All

Contact Officers

Philip Hyde, head of law and governance
Jackie Rodger, senior committee officer

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Background Documents

None

Report

Introduction

1. The council's constitution has been revised to incorporate changes that in the most part can be achieved through Article 15 and reflect the changes to the council's executive arrangements and senior management structure. Council approval is required to appoint the head of law and governance as monitoring officer and the approval of both the cabinet and council to adopt the revised scheme of delegations (appendix 8 of the council's constitution).
2. The council's constitution was originally based on the government's model constitution (Local Government Act 2000) and approved in 2002. The current constitution is in need of rationalisation as it contains cross-references and duplication which make it difficult to use. It is proposed therefore that the revised council constitution provides a base for further work by the constitution working party to conduct an extensive review of the constitution during 2011-12.

Amendments to the Constitution

3. The constitution is regularly updated to reflect decisions made at council or cabinet and factual changes. The adoption of new executive arrangements by council on 30 November 2010 and changes to the senior management structure in the council require textual changes to be made throughout most of the articles and appendices of the constitution. These changes have been made under article 15 of the council's constitution.
4. The adoption of the strong leader and cabinet model has meant that references to the appointment of cabinet members at annual council has been deleted (Appendix 1) and references to the executive have been replaced with cabinet. The council adopted a petitions scheme in November and this will need to be incorporated into the constitution.
5. The council has revised its senior management structure as part of the improvement and efficiency programme and the constitution has been amended to reflect new job titles and arrangements where appropriate.
6. Paragraph numbering has been reformatted so that all the articles and all the appendices have the same format where possible. Appendix 19 relating to community power has been deleted. Appendix 20 – code of governance therefore becomes appendix 19. There were inconsistencies where it was not clear where the chief finance officer, currently held by the head of finance, was also referred to as the s151 officer. The statutory officer role is referred to as chief finance officer throughout the document.

Monitoring Officer

7. At its meeting on 28 September 2010, the council approved the appointment of David Johnson, nplaw, as monitoring officer, and Victoria McNeill and Chris Skinner, nplaw, to act as deputy monitoring officers for the city council.

8. Due to changes proposed to the standards and investigations regime and following changes to the senior management structure, the post of the head of legal and democratic services has been revised and will now be known as head of law and governance. Changes to the statutory regime will also place greater emphasis on internal governance powers, particularly in relation to the general power of competence and prohibited activities. The post holder will now be responsible for internal governance arrangements within the authority and this will include cover any revised statutory duties of the monitoring officer.
9. It is therefore proposed that the council appoints Philip Hyde, head of law and governance, as monitoring officer, in accordance Section 5 of the Local Government and Housing Act 1989, with David Johnson, Victoria McNeill and Chris Skinner, nplaw, as deputy monitoring officers.

Scheme of Delegations/Proper Officer

10. The council's scheme of delegation (appendix 8 of the council's constitution) is subject to adoption by the council and can only be amended by the council. The cabinet is responsible for maintaining a list of delegations setting out which officers are responsible for the exercise of particular executive functions.
11. The post of the director of transformation has been deleted in response to the council's corporate efficiency programme. It is proposed therefore that Appendix 8 be amended to transfer the following responsibilities from the director of transformation to the chief executive:
 - (1) All functions of the Council to apply for and receive funding from the European Union and to apply that funding for the purposes for which it is intended.
 - (2) All functions of the Council relating to set up and management of partnership projects with external bodies and the role of the Council as lead body on EU funded and similar projects.
 - (3) All functions relating to policy and improvement.
12. The statutory and proper officer appointments as set out in appendix 9A have been amended to reflect recent to the Public Health (Control of Disease) Act 1984 (as amended by the Health and Social Care Act 2008) and the new Health Protection (Part 2A Orders) Regulations 2010 and Health Protection (Notification) Regulations 2010 as set out in appendix 9 of the constitution.

Further changes to the constitution

13. The constitution has been amended to and added to over the years and this piecemeal approach means that the constitution is in need of radical revision to avoid duplication and cut down on cross-references. Appendix 7 which sets out the rules for access to information also contains information on key decisions that could be incorporated into the procedural rules for the cabinet (appendix 5). There is also duplication between articles and the appendices, intended for clarification but difficult to use in practice, for instance article 12 – Employees relates to the statutory functions of the monitoring officer and chief finance officer, which is also set out in appendix 9 Proper Officers.

14. The reform of local government proposed under the Decentralisation and Localism Bill will require extensive revision of the council's constitution. Proposals include the abolition of the Standards Board, members' codes of conduct and standards committees and includes local election recall. The bill also includes proposals to revise the planning system, which includes the abolition of regional spatial strategies, and give residents powers to instigate local referendum.
15. The constitution working party will be consulted on revised financial regulations and procedures and standing orders relating to contracts (appendices 10 and 11 of the constitution) in the near future.
16. The definition of "key decisions" as set out in the Local Government Act 2000 needs greater clarification than the term currently used as 'significant'. The constitution working party will be asked to consider a definition that is suited to the council and corresponds with the financial regulations and procedures.
17. Council has requested the constitution working party to review the petitions scheme after 6 months. There is also a question on where the scheme should sit within the constitution and this should be considered in the light of a radical review of the constitution.

Constitution Working Party

18. The constitution working party is a cross-party committee which meets on an adhoc basis to review the constitution and matters referred to it by council. It is an advisory group and makes recommendations to cabinet.
19. It is recommended that the constitution working party meets regularly throughout 2011-12 to enable a thorough revision of the constitution.