

## Special Advisory Group

19 October 2018

<b>Report title</b>	Changes to the Constitution	
<b>Cabinet Member with lead responsibility</b>	Councillor Val Gibson, Governance	
<b>Wards affected</b>	All	
<b>Accountable director</b>	Kevin O'Keefe, Director of Governance	
<b>Originating service</b>	Democratic Services	
<b>Accountable employee</b>	Jaswinder Kaur	Democratic Services Manager
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<b>Report to be/has been considered by</b>	n/a	

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### Recommendations for decision:

The Special Advisory Group is recommended to recommend that Council:

1. Approves the amendments to the Constitution.
2. Authorises the Director of Governance to implement the changes.

## 1.0 Purpose

- 1.1 This report outlines the changes made to the constitution for approval by the Council. It is recommended that the Council agrees to the amendments to the Council's Constitution to ensure continuing lawfulness and effectiveness.

## 2.0 Background

- 2.1 The Special Advisory Group received a report on the 24 November 2017 recommending that the Constitution be refreshed to remove repetition, update terminology and, where possible, simplify the wording to make it clearer.
- 2.2 The Council noted the recommendation that further amendments to the Constitution would be presented in 2018.
- 2.3 As part of the iterative approach to maintaining the Constitution, the Constitution Review Group has highlighted a number of changes that need to be made. Some of these are in relation to operational changes within the Council's structures, others reflect changes in regulations and guidance. The Director of Governance is authorised in the Constitution to make amendments where it is administratively convenient to do so to reflect changes in legislation or organisational restructures.

## 3.0 Changes to the Constitution

- 3.1 The table below details the Articles/Sections to be changed:

Section	Proposed	Rationale
Part 2 Article 10 – Employees	That Employees Responsibilities be updated in line with the current senior management structure.	To ensure they reflect the current responsibilities of each post.
Part 3 – Responsibility for functions	That the Cabinet portfolios be updated as agreed by Council on 16 May 2018.	To ensure they reflect the current responsibilities of each portfolio area.
Part 3 – Responsibility for functions	That the delegations to Cabinet, Cabinet (Resources) Panel and Cabinet (Performance Management Panel) be updated with the correct portfolio titles.	To ensure they reflect the correct portfolio area.

Section	Proposed	Rationale
Part 3 – Terms of Reference Licencing Committee – Statutory Licencing Committee – Appendix 1 Non-Statutory Licencing Committee – Appendix 2 .	That the Terms of Reference be split to form a Statutory Licencing Committee and a Non-Statutory Licencing Committee.	Following legal counsel, the Council has been advised that best practice is to establish a Statutory and Non-Statutory Committee to consider licensing matters.
Part 3 – Terms of Reference Pensions Committee	That the Terms of Reference be updated with the process for urgent decisions.	To provide clarity on the process to follow for urgent decisions.
Part 3 – Terms of Reference – Special Advisory Group	That the following functions be transferred from Standards Committee to Special Advisory Group:  a. to liaise between the Council and the Ombudsman;  b. to advise the Council on the conferment of the title of Honorary Alderman or Freedom of the City;  c. to advise the Council on the making, amendment, revocation or re-enactment of bylaws and the promotion of or opposition to local or personal Bills in Parliament.	These functions are more closely aligned to those of Special Advisory Group than those of Standards Committee.
Part 3 – Terms of Reference Standards Committee	That maintaining oversight of the Local Code of Corporate Governance be removed from the functions.	The current practice is for the annual governance statement to be submitted to the Audit and Risk Committee for consideration and is detailed within the Terms of Reference of the Audit and Risk Committee.
Part 3 – Health and Wellbeing Together Board	That the Terms of Reference for the Health and Wellbeing Together Board formally the Health and Wellbeing Board be amended.	To reflect the changes agreed by the Health and Wellbeing Board at their meeting on 11 July 2018.

<b>Section</b>	<b>Proposed</b>	<b>Rationale</b>
Part 3 – Corporate Parenting Board	That the Terms of Reference for the Corporate Parenting Board be amended.	To reflect the changes agreed by the Corporate Parenting Board at their meeting on 18 January 2018.
Part 3 – Responsibility for functions	That the delegations to Directors be updated.	To ensure they reflect the current responsibilities of each Director following the most recent senior management restructure.
Part 3 – Delegations to the Director of Finance	<p>That the following delegations be deleted:</p> <p>E6 - To administer the assessment and payment of Housing Benefit, the Localised Council Tax Support Scheme and the Sanctions Policy in respect of fraud.</p> <p>E13 - To make loans for vehicle purchase and to arrange leasing or contract hire as appropriate.</p>	<p>This function is sufficiently covered by delegation E20.</p> <p>This delegation is no longer required.</p>
Part 3 – Delegations to the Strategic Director of People	<p>That the following delegation be reworded from:</p> <p>G8 - To manage the Anti-Social Behaviour Unit in conjunction with Wolverhampton Homes and, in conjunction with the Director of Governance to institute proceedings to combat anti-social behaviour.</p> <p>To</p> <p>G8 - To deliver the authority's ASB responsibilities through contracting with Wolverhampton Homes and, in conjunction with the</p>	To better reflect current operation.

Section	Proposed	Rationale
	<p>Director of Governance to institute proceedings to combat anti-social behaviour.</p>	
<p>Part 3 – Delegations to the Director of Children’s Services</p>	<p>That the following delegation be reworded from:</p> <p>H8 - That the following delegation be reworded from: To exercise the statutory functions, powers and duties of the Council in relation to vulnerable children and young people as set out in Working Together 2015.</p> <p>To</p> <p>H8 - That the following delegation be reworded from: To exercise the statutory functions, powers and duties of the Council in relation to vulnerable children and young people as set out in Working Together 2018.</p>	<p>To reflect up to date legislation.</p>
<p>Part 3 – Delegations to the Director of Adult Services</p>	<p>That the following delegation be reworded from:</p> <p>17 - To exercise the statutory functions, powers and duties of the Council in relation to vulnerable adults and adults at risk as set out in the Care Act 2014.</p> <p>To</p> <p>17 - To discharge the functions conferred on or exercisable by the council in its capacity as Adult Social Services Authority conferred</p>	<p>To incorporate all relevant legislation.</p>

Section	Proposed	Rationale
	<p>by the Local Authority Social Services Act 1970, the Care Act 2014 and all other health and social care legislation for adults including in relation to mental health.</p>	
<p>Part 3 – Delegations to the Director of Adult Services</p>	<p>That the following delegations be added:</p> <p>I11 - To discharge any functions exercisable by the council under Section 75 of the National Health Service Act 2006 on behalf of an NHS body and have the responsibility for any adults' functions integrated with any NHS body.</p> <p>I12 - To be designated as the 'responsible person' required by the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 to ensure compliance with the procedures and ensure action is taken in the light of complaints and also for other statutory complaints procedures relating to adults' complaints.</p>	<p>These are operational issues and by delegating to an officer these can be dealt with in a timely manner.</p>
<p>Part 3 – Delegations to the Director of Pensions</p>	<p>That the delegations to Director of Pensions be updated.</p>	<p>To ensure they reflect the current responsibilities of the director.</p>
<p>Part 3 – Delegations to the Director of Pensions</p>	<p>That the following delegation be reworded from:</p> <p>M3 - To provide services to the West Midlands Integrated Transport Authority Pension Fund.</p>	<p>To better reflect current procedure.</p>

Section	Proposed	Rationale
	<p>To</p> <p>M3 - To manage and administer the West Midlands Integrated Transport Authority Pension Fund in line with the S101 delegation from the Combined Authority.</p>	
<p>Part 3 – Delegations to the Director of Governance</p>	<p>That the following delegation be moved from the Director of Finance to the Director of Governance, and be updated from:</p> <p>In consultation with the Director of Governance to deal with ex-gratia claims up to £500.</p> <p>To:</p> <p>Deal with ex-gratia claims up to £750.</p>	<p>This is an operational issue and by delegating to an officer these can be dealt with in a timely manner.</p>
<p>Part 4 – Full Council Meeting Procedure Rules</p>	<p>That the notice for written questions by Councillors be changed from five clear days' notice to seven clear days' notice</p>	<p>To ensure written questions are received in a timely manner and added to the agenda ahead of publication whilst, also reflecting the current practice.</p>
<p>Part 4 – Full Council Meeting Procedure Rules</p>	<p>That the notice for Motions be changed from five clear days to seven clear days.</p>	<p>To ensure motions are received in a timely manner and added to the agenda ahead of publication whilst, also reflecting the current practice.</p>
<p>Part 4 – Code of Conduct for Employees</p>	<p>That the following paragraph be updated:</p> <p>Employees who are provided with an access pass or identification card must wear them on a corporate branded</p>	<p>To clarify expectations.</p>

Section	Proposed	Rationale
	lanyard <b>at all times</b> . All employees who have daily, face-to-face contact with our customers must wear a name badge at all times.	
Part 4 - Protocol for webcasting – Appendix 2	That the Protocol for webcasting be added to section 4.	To assist in the conduct of webcasting and to ensure compliance with the Council's obligations under the Data Protection Act 2018, the General Data Protection Regulation, and the Human Rights Act 1998.

#### 4.0 Financial implications

- 4.1 There are no financial implications arising from the recommendations in this report.  
[GE/09102018/N]

#### 5.0 Legal implications

- 5.1 The Council is required by Section 37 of the Local Government Act 2000 to prepare and publish a Constitution which contains its standing orders relating to decision-making, finance and contracts. The Council is also required to keep its Constitution updated. The Director of Governance is authorised under the constitution to make amendments which more accurately reflect legislative and organisational changes.  
[RB/09102018/L]

#### 6.0 Equalities implications

- 6.1 The Council must, in the exercise of its functions, have due regard to the need to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;
  - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 6.2 The Constitution seeks to ensure that, in its decision-making and its operations, the Council fully complies with the public-sector equality duty.



6.3 An equalities assessment has been carried out on the Constitution, having due regard for equalities implications and there were no specific implications linked to the recommendations in this report.

## **7.0 Environmental implications**

7.1 There are no environmental implications arising from this report.

## **8.0 Human resources implications**

8.1 There are no human resources implications arising from this report.

## **9.0 Corporate landlord implications**

9.1 There are no corporate landlord implications arising from this report.

## **10.0 Schedule of background papers**

10.1 Changes to the Constitution, Special Advisory Group, 24 November 2017

10.2 Corporate Parenting Board – proposed amendments to Terms of Reference, Corporate Parenting Board, 18 January 2018

10.3 Strengthening Governance and System Leadership - Health and Wellbeing Board Review - Final Recommendations, Health and Wellbeing Board, 11 July 2018

## **11.0 Appendices**

Appendix 1 - Terms of Reference – Statutory Licencing Committee and Non-Statutory Committee

Appendix 2 - Terms of Reference –Non-Statutory Committee

Appendix 3 - Protocol for Webcasting