

**To: Council**

**Date: 13<sup>th</sup> April 2015**

**Report of: Monitoring Officer**

**Title of Report: CONSTITUTION REVIEW 2015**

## **Summary and Recommendations**

**Purpose of report:** This report recommends changes to the Council's constitution.

**Policy Framework:** N/A

**Recommendation(s):** Council is RECOMMENDED to approve, with immediate effect, the amendments to the Constitution outlined in the report and in:-

Appendix 1 - Finance Rules;  
Appendix 2 - Contract Procedure Rules;  
Appendix 3 - Planning Code of Practice;  
Appendix 4 - Miscellaneous proposed changes;

## **Appendices**

Appendix 1 - Finance Rules  
Appendix 2 - Contract Procedure Rules  
Appendix 3 - Planning Code of Practice  
Appendix 4 - Miscellaneous proposed changes

## **Summary of report**

1. This report proposes changes to the Council's Constitution following an internal review. The changes that are recommended have been discussed on a cross party basis. The review has been informed by a light touch governance review which has resulted in some proposed amendments to the City Executive Board procedures.

2. The report proposes changes to the Finance Rules, the Contract Rules and Planning Procedure Rules. Revised Rules, track changed, are attached as **Appendices 1, 2 and 3**. Miscellaneous changes are also proposed. Where it aids clarity these changes are shown in **Appendix 4**. Otherwise the changes are described in the report.

### **Finance Rules (Appendix 1)**

3. Section 18 of the Constitution is reproduced, with tracked changes, in its entirety as Appendix 1. The changes to the Finance Rules are proposed to:-
  - Provide clarity; and
  - Improve internal controls

### **Contract Rules (Appendix 2)**

4. Section 19 of the Constitution is reproduced, with tracked changes, in its entirety as Appendix 2. The changes to the Contract rules are proposed to:-
  - Comply with the changes introduced in the Public Contracts Regulations 2015;
  - Follow best practice in procurement; and
  - Provide clarity

### **Planning – Code of Practice and Procedures (Appendix 3)**

5. The rewording of parts of the Code of Practice summary that is reproduced with planning committee agenda deals with administrative practice in relation to planning committee meetings. It is reproduced, with tracked changes, in its entirety as Appendix 3. The changes are proposed to allow for adequate briefing of the chair and members and the efficient administration of the meetings.

### **Miscellaneous Changes (Appendix 4)**

6. Officers do not have to exercise the powers delegated to them and can ask the body who made the delegation to them to make a decision. Paragraph 3.4(b) will be amended to clarify that if the Head of City Development does not wish to determine a matter which has been delegated by Council, the relevant Area Planning Committee can be asked to make the decision (Appendix 4).

7. An Article 4 Direction is made by the local planning authority. It restricts the scope of permitted development rights either in relation to a particular area or site, or a particular type of development anywhere in the authority's area. Where an Article 4 direction is in effect, a planning application may be required for development that would otherwise have been permitted development. Article 4 directions are used to control works that could threaten the character of an area of acknowledged importance, such as a conservation area. The confirmation of Article 4 Directions is a local choice function and was until recently performed by the City Executive Board and was then moved to Area Planning Committees.
8. A problem arises where a Direction covers both the East and West Areas and so it is proposed that the function is moved back to the City Executive Board to avoid any future complications. Procedure Rule 4.5 lists the responsibilities of the Board. It is proposed that the following is added to the list:
  - to confirm Article 4 Directions where there have been objections
9. A consequential change will also be made to the list of functions delegated to Area Planning Committees at Paragraph 5.3 (See Appendix 4).
10. Heritage Asset Nominations are currently considered at review panels of local ward members and recommendations are passed to City Executive Board where a final decision is made as to whether to add them to the list. The proposal is that these stages should be replaced for all heritage asset nominations by reporting to the relevant Area Planning Committee to make a single decision. The Area Planning Committee would decide whether to register one or more candidate heritage assets having regard to the Council's adopted criteria. This would apply to the nomination of heritage assets made by officers or ward members outside the specific circumstance of a planning application.
11. To date potential heritage assets have only been considered at Area Planning Committees where there is a current planning application affecting them. Area Planning Committee members are able to request call-in of a planning application where they believe a heritage asset may be affected, in order for due consideration to be given of its potential for registration as a heritage asset prior to determination of the application.
12. This will require a change to the list of functions delegated to the Area Committees at Paragraph 5.3(a) as set out in Appendix 4.
13. Heads of Service are currently appointed by the Appointments Committee and it is proposed that the Chief Executive and Directors should have the delegated authority to appoint Heads of Service. This will require changes to Paragraph 5.15 and the role of the Appointments

Committee at Paragraph 7.7. Some consequential amendments will also be required to the Employment Rules in the Constitution. The changes are detailed in Appendix 4.

14. Before a Head of Service is appointed the law requires that the City Executive Board is consulted. It is proposed that a member of the City Executive Board should be a member of any appointment panel and that, when a provisional decision has been reached, all members of the City Executive Board should be consulted about the proposed appointment. Provided that the City Executive Board agrees or makes no objection to the proposed appointment by a deadline set by the Head of Human Resources and Facilities, it can proceed. Where the City Executive Board raises an objection, the appointing officer must consider the relevance and justification of the objection and can only proceed if he/she does not believe that it is substantial enough to warrant a review of the proposed appointment.
15. Currently there is no procedure for the election/appointment of the civic office holders. A new Paragraph 11.2A will be inserted to set out the process to be followed. This procedure is outlined in Appendix 4.
16. The Constitution does not at the moment define the order of business to be followed at the budget setting meeting of Council. Appendix 4 contains a proposal to insert a new paragraph 11.3 outlining a procedure to be followed. The rest of the Full Council Procedures will be re-numbered accordingly.
17. The recent governance review highlighted the need for there to be a slot at meetings of City Executive Board where members could raise local/ward issues. The Board Procedures will be amended to allow for councillor addresses on ward issues and a new Paragraph 12.11 will be added (See Appendix 4). There will be a renumbering of the rest of the Board Procedures.
18. It is a legal requirement for 28 days' notice to be given of the taking of a key decision and of the taking of a report in part or in whole in private. This is done by notification in the monthly executive work programme which, for convenience, we call the forward plan. Reference to the Forward Plan will be added to the Board Procedures (see Appendix 4).
19. There are some amendments to the Scrutiny Committee Procedures set out in Appendix 4.
20. Some changes, proposed for clarity, to the Other Committee Procedures are set out in Appendix 4. Some renumbering of that part of the Constitution will be required as a result.
21. Proposals for clarification have been proposed in relation to the Access to Information and Key Decision Procedures (Appendix 4). Paragraph 15.3 will be amended to reflect the fact that public meetings of the

Council can be recorded. Paragraph 15.8 to be amended to clarify that agenda and reports will be available on the Council's website at least 5 working days before a meeting.

22. Amendments are proposed in Appendix 4 to the Code on Member-Officer relations to provide clarity on the issue of officers taking instructions from political groups.

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**Background papers: none**

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