

## **City Council – 8 March 2021**

### **Joint report of the Chair of Audit Committee and the Chair of Standards Committee**

#### **Amendments to the Constitution**

##### **1 Summary**

- 1.1 The Local Government Act 2000 requires the Council to keep its Constitution up to date. Proposed amendments to non-executive aspects of the Constitution are outlined below.

##### **2 Recommendations**

- 2.1 To adopt a revised Councillor Code of Conduct, as detailed in appendix A, to replace the current Councillors' Code of Conduct and Co-opted Members' Code of Conduct, and to amend the Constitution accordingly.
- 2.2 To adopt a revised Terms of Reference for the Audit Committee as detailed in appendix B, and to amend the Constitution accordingly.
- 2.3 To re-designate the statutory responsibility of the Director of Adult Social Services to the post of Corporate Director for People, and to amend the Constitution accordingly.

##### **3 Reasons for recommendations**

- 3.1 The Local Government Act 2000 requires the Council to keep its Constitution up to date.
- 3.2 It is proposed to adopt a new Councillor Code of Conduct to ensure that the Code is up to date, fit for purpose and in line with best practice.
- 3.3 It is proposed to adopt a revised Terms of Reference for the Audit Committee in accordance with the recommendations contained within the Action Plan agreed by Council in response to the external auditor's Report in the Public Interest on Nottingham City Council's governance arrangements for Robin Hood Energy Ltd.
- 3.4 It is proposed to re-designate the statutory responsibility of the Director of Adult Social Services to the Corporate Director for People to create equity with the statutory responsibility of Director of Children's Services, which is already held by the Corporate Director for People, with a reporting line to the Chief Executive.

##### **4 Other options considered in making recommendations**

- 4.1 Not updating the Constitution is not an option as it is required by legislation, to ensure clarity of rights and duties and enable the Council to conduct its business lawfully and in line with Council policy.

##### **5 Background (including outcomes of consultation)**

- 5.1 The Constitution needs to be updated regularly to ensure that it reflects current legislation and local agreement about governance of the Council and the way it makes decisions. This ensures there is clarity about rights and duties.

- 5.2 It is the responsibility of Council to maintain and amend the Constitution.
- 5.3 In 2018 the Committee on Standards in Public Life announced a review of ethical standards in local government. The report into Local Government Ethical Standards was published in January 2019 and included a recommendation that the Local Government Association create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government. The Code was published in December 2020. The Standards Committee considered the new Code at its meeting on 5 February 2021, noting that the current Nottingham City Council Code of Conduct includes issues which the Council has agreed to be of particular local importance, such as safeguarding training and DBS checks. The Committee also supported the incorporation of aspects relevant to co-opted members into the Code. With the addition of these local provisions, the Standards Committee recommend that Council adopt the new Code, as set out in appendix A, and amend the Constitution accordingly.
- 5.4 In August 2020, the Council's external auditor issued a Report in the Public Interest on Nottingham City Council's governance arrangements for Robin Hood Energy Ltd. In response to this Report, Council agreed an Action Plan. Recommendations included in the Action Plan required that the Audit Committee Terms of Reference are reviewed. An internal review has been conducted, followed by an external review by CIPFA. A revised draft Terms of Reference was considered by Audit Committee at its meeting on 26 February 2021 and the Committee agreed to recommend it to Council. The proposed revised Terms of Reference is attached at appendix B.
- 5.5 Section 6 of the Local Authority Social Services Act 1970 places a duty on local authorities to designate a Director of Adult Social Services (DASS). This role is one of the statutory chief officer roles of the local authority by virtue of section 2 of the Local Government and Housing Act. The role is currently designated to the Director of Adult Social Care. Archived statutory guidance entitled 'Guidance on the Statutory Chief Officer Post of the Director of Adult Social Services' (May 2006), issued by the Secretary of State for Health via the Department of Health, but so far not replaced, states at paragraph 9: "Local authorities shall ensure that the DASS is directly accountable to the Chief Executive of the local authority and comparable, in terms of seniority, with the Director of Children's Services." The statutory responsibility of Director of Children's Services is already designated to the Corporate Director for People and it is proposed to re-designate the DASS role to the Corporate Director for People, creating equity for the two statutory roles with a reporting line to the Chief Executive.

## **6 Finance colleague comments (including implications and value for money)**

- 6.1 None

## **7 Legal and Procurement colleague comments (including risk management issues, and legal, Crime and Disorder Act and procurement implications)**

- 7.1 The Council would be in breach of its statutory duty if it did not update its Constitution and it is essential that there is clarity for councillors, colleagues, partners and citizens about rights and duties.

## **8 Equality Impact Assessment (EIA)**

- 8.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because the report does not contain any proposals for changes to policies or services.

**9 List of background papers other than published works or those disclosing confidential or exempt information**

9.1 None

**10 Published documents referred to in compiling this report**

10.1 Local Government Act 2000

10.2 Nottingham City Council Constitution – Version 7.30

10.3 Minutes of the meeting of the Standards Committee held on 5 February 2021

10.4 Minutes of the meeting of the Audit Committee held on 26 February 2021

10.5 Report in the Public Interest on Nottingham City Council's Governance Arrangements for Robin Hood Energy Ltd

10.6 Minutes of the Extraordinary meeting of Council held on 27 August 2020

**Councillor Audra Wynter  
Chair of Audit Committee**

**Councillor Neghat Khan  
Chair of Standards Committee**