

City Council – 13 September 2021

Report of the Deputy Leader of the Council

Nottingham City Council's New Constitution

1 Summary

- 1.1 This report presents a new Constitution to Council for approval.
- 1.2 The Constitution describes how the Council conducts its business including how decisions are made, who can make them and what rules and procedures must be followed. It also outlines the roles and responsibilities of officer and Councillors.
- 1.3 As part of the Recovery and Improvement Plan the Council committed to delivering a re-written Constitution to provide greater clarity and streamline decision making. Only Council can amend the Constitution and therefore this report presents the re-written Constitution to Council for approval.

2 Recommendations

It is recommended that Council:

- a) considers and approves the re-written Constitution
- b) agrees that the provisions of the new Constitution come into force on 1 October 2021 to allow time for communication with officers and updating of systems supporting decision making
- c) notes the Executive arrangements outlined in the re-written Constitution which have been agreed by the Leader of the Council and agrees the inclusion of them in the Constitution
- d) notes that Executive delegations will be reviewed by the Leader six months after implementation (April 2022) to ensure they are fit for purpose.

3 Reasons for recommendations

- 3.1 In accordance with the Constitution Workstream of the Recovery and Improvement Plan, Nottingham City Council's Constitution has been re-written. The agreed objectives of the Constitution workstream are:
 - a) To establish and embed best practice principles of corporate governance throughout our decision-making processes and Constitution.
 - b) To provide clarity of the complementary roles of Officers and Councillors, and establish clear lines of accountability including the adoption of a new Member/Officer Protocol.
 - c) To establish clear and well understood boundaries between the responsibilities of Officers and of Councillors.
 - d) To ensure Executive and Non-Executive committees are able to fulfil their respective roles through clarification of their terms of reference.
 - e) To simplify the current Portfolio groupings to reduce overlap.
 - f) To simplify decision making during the delivery of this plan.The rewriting of the Constitution supports the achievement of these objectives.
- 3.2 Of the five workstream deliverables, two have been delivered in full. The new Councillor/ Officer Protocol was agreed at Full Council in January and a review of Portfolios has been completed and came into operation on 26 April. Revised terms of

reference for Audit Committee and Overview and Scrutiny Committee have also been agreed with the remainder of the Committee terms of reference being reviewed as part of the whole Constitution.

3.3 **Review of Content**

The rewrite of the Constitution has reviewed both the content and framework for the document. Revisions to content have focused on:

a) **Clarifying the Roles of Officers and Councillors**

In addition to the agreement of a revised Councillor/ Officer Protocol the new Constitution has separate articles on the roles of Councillors and the roles of officers. These articles emphasise the strategic/ policy setting role of Councillors and the operational/ management/ professional advisory role of officers. The important roles of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are emphasised as are key roles held by Councillors.

b) **Schemes of Delegation**

A series of conversations have been held with the Leader regarding Executive delegations with the aim of bringing arrangements more in line with those in other Councils and supporting the principle of officers being responsible for operational decisions. The Leader has agreed to decrease the Key Decision threshold to £750,000 and increase officer decision making powers enabling officers to take operational decisions with a value of up to £149,999 and has agreed to other measures designed to streamline decision making. These arrangements will be reviewed after 6 months to ensure they are fit for purpose. Specific delegations have been agreed in relation to Care Packages reserving them to officers, regardless of value. Arrangements for Non-executive delegations to Committees and officers have also been clarified.

c) **Principles of Decision Making**

A new article has been included in the Constitution outlining the principles of decision making. This covers the considerations that must be taken into account by decisions makers and includes statutory responsibilities such as Equality and Diversity and Data Protection and other important considerations such as risk, consultation and interests.

d) **Council Companies**

A new article has been included in the Constitution outlining the decision making and wider governance arrangements in relation to Council Companies.

e) **Other Amendments**

- a) Revised Financial Regulations and Contract Procedure Rules
- b) Council Standing Orders and Committee Procedures
- c) All Committee Terms of reference
- d) Officer Employment Procedure Rules
- e) Councillor and Officer Codes of Conduct.

3.4 **Review of Framework**

In line with many other Councils, the revised Constitution has moved away from the previous model Constitutions in order to make the revised Constitution easier to read and navigate, shorter, and to provide greater clarity of roles. The new Constitution has been restructured around the following framework:

- a) No longer separating the Constitution into parts within which the articles sit but having a number of clearly labelled documents, each covering a section of the Constitution.
- b) Taking some sections out of the core Constitution maintaining them as supporting Governance Framework Documents. This includes for example the lengthy tables of specific delegations to officers and Committee memberships.
- c) Bringing complementary sections together into single articles.

- 3.5 The following stylistic principles have also been applied:
- a) Using plain English and clear layouts
 - b) Minimal duplication across the whole Constitution
 - c) Consistent language across the whole Constitution
 - d) Reducing the need for future amendments

4 Other options considered in making recommendations

- 4.1 The Council committed to re-writing the Constitution as part of the Recovery and Improvement Plan agreed by Council in January 2021 therefore no alternatives were considered at this stage.

5 Background (including outcomes of consultation)

5.1 Methodology

The following methods were applied to the development of the new Constitution:

- a) Desktop reviews of other Councils' Constitutions
- b) Surveys of officers on decision making in Nottingham and of other core cities on their schemes of delegation
- c) Input from relevant teams across the Council and external bodies
- d) Involvement of a cross party Constitution Working Group of Councillors with representation of Executive and Non-executive Councillors and including two independent members from the LGA and Nottingham Trent University. This Group first met as the formally constituted Governance Improvement Board in response to the Public Interest Report and continued to meet informally to support the drafting of the Constitution. The Group has had input on all draft articles as well as the overall framework.

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

- 6.1 There are no direct financial implications arising from the content of this report. Any subsequent changes regarding the constitution, its delivery and compliance will be subject to separate approval where any financial implications will be considered.

Phil Gretton – Strategic Finance Business Partner – 2nd September 2021

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

- 7.1 It is an essential element of good governance that the Council has a clear, concise and up to date constitution that sets out in a very transparent manner how the Council conducts its business. The new constitution has been assembled having regard to best practice elsewhere across the sector, views of other parties both internal and external and ensures that the Council complies with all relevant legislation.

Malcolm R. Townroe – Director of Legal and Governance, Solicitor and Monitoring Officer – 2 September 2021

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:

An EIA is not required as the amendment of the Constitution does not involve a new or changing policy or service. Equality, Diversity and Inclusion considerations have been more explicitly built into the decision making process in the new Constitution and will be covered in depth in guidance and training for decision/report authors.

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

None

10 Published documents referred to in compiling this report

10.1 External Auditor's 'Report in the Public Interest on Nottingham City Council's governance arrangements for Robin Hood Energy Ltd' (August 2020)

10.2 Minutes of the meeting of the City Council on 27 August 2020

10.3 Ministry of Housing, Communities and Local Government report of the Non-Statutory Review of Nottingham City Council (November 2020)

10.4 Nottingham City Council Recovery and Improvement Plan 2021 – 2024

Councillor Sally Longford
Deputy Leader of the Council