

CITY COUNCIL – 9 NOVEMBER 2015

REPORT OF THE LEADER OF THE COUNCIL

AMENDMENTS TO THE CONSTITUTION

1. SUMMARY

- 1.1 The Local Government Act 2000 requires Council to keep its constitution up to date. Amendments to be reported and/ or agreed are outlined below.
- 1.2 Councillors may wish to make reference to the current constitution, Version 7.17, which can be viewed on line via the following link:
<http://www.nottinghamcity.gov.uk/article/24275/Nottingham-City-Councils-Constitution>. Councillors may request a paper copy for their sole use by contacting Constitutional Services on 0115 8764312.

2. RECOMMENDATIONS

- 2.1 To note the amendments to the financial limits relating to executive delegated decision making as outlined in paragraph 5.2;
- 2.2 To approve the amendments to the financial limits relating to non-executive delegated decision making as outlined in Paragraph 5.3
- 2.3 To approve revisions to the Overview and Scrutiny Procedure Rules, revising the decisions to which the Call-in Procedure applies (see paragraph 5.4);
- 2.4 To note that the Appointments and Conditions of Service Committee agreed changes to the senior officer structure in September 2015 and approve the replacement of the old senior management structure in Part Three of the Constitution with the current one;
- 2.5 To note the changes to delegations relating to non-executive and executive delegated decision making to reflect the recently agreed senior officer structure and to approve changes to the constitution to reflect these (see paragraph 5.5);
- 2.6 To approve changes to the terms of reference for the Health and Wellbeing Board and the Planning Committee (see paragraphs 5.6 and 5.7);
- 2.7 To note the changes to Executive Portfolio responsibilities (see paragraph 5.8);
- 2.8 To approve amendments to Standing Orders to reflect the revised procedure and deadlines relating to council questions in Part Four of the Constitution (see paragraphs 5.9 and 5.10);
- 2.9 To delegate authority to the Corporate Director of Resilience to agree the changes to the wording of the Constitution necessary to implement the above;

2.10 To approve the revised Employment Procedure Rules (see paragraph 5.11 and Appendix 1) and to replace the existing Employment Procedure Rules in Part Four of the Constitution.

3. REASONS FOR RECOMMENDATIONS

3.1 The Local Government Act 2000 requires Council to keep its Constitution up to date.

4. OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

4.1 The Constitution ensures clarity of rights and duties to enable the Council to conduct its business lawfully and in line with Council policy. Not to update the Constitution is therefore not an option.

5. BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

5.1 The Constitution needs to be updated periodically to reflect changes in legislation and to ensure clarity of rights and duties. Since previous Constitutional Amendment reports to Council, legislative changes have been enacted and local decisions have been taken or are proposed which need to be reflected in the current version of the Constitution.

5.2 Delegated Decision Making

In order to ensure the Council's delegated decision making procedures are fit for purpose, in that they provide a framework for recording and publishing decisions taken by officers and Portfolio Holders that is efficient, robust and transparent, a review of the entire process has been conducted. Based upon the findings of that review I have agreed to raise the financial threshold at which Portfolio Holder approval is required for an executive decision from £25,000 to £50,000 and the threshold at which officer executive decisions have to be formally recorded and published from £10,000 to £25,000. The £50,000 threshold is also in line with financial procedure rule thresholds relating to tender requirements. The threshold for Key Decisions remains unchanged at £1,000,000. These changes will be reflected in the Scheme of Executive Delegation in Part Two of the Constitution.

5.3 Thresholds for colleagues taking non-executive officer decisions currently require all decisions with a value of £10,000 and above to be recorded on a delegated decision form and published. In order to keep the threshold for non-executive decisions in line with those for executive decisions, thereby reducing potential confusion and similarly increasing efficiency, it is proposed that Council approve increasing the threshold to £25,000.

5.4 Currently all executive decisions with a value of £10,000 or above are subject to call-in. In order to reflect the revised financial thresholds, it is proposed that the threshold at which decisions become subject to call-in is raised to £50,000. Any decision with a value of less than £50,000 but which has been deemed to be of sufficient significance to warrant signature by a Portfolio Holder will also be subject to call-in. This will remove the five day period currently applied to all published executive decisions following publication and during which a decision cannot be implemented from decisions which are lower in value and lower in risk. None of the nine decisions that have been called-in to date would have been excluded from eligibility for call-in

by the proposed threshold as the two called-in decisions with a value of less than £50,000 were taken as Portfolio Holder decisions and would therefore still be subject to call-in. If approved, amendments will be made to the Overview and Scrutiny Procedure Rules in Part Four of the Constitution.

5.5 Following the approval of a revised senior officer structure at the Appointments and Conditions of Service Committee in September 2015, the Chief Executive signed a sub-delegation form delegating authority to Strategic Directors to take executive and non-executive officer decisions and to counter-sign Portfolio Holder decisions related to all matters within their remits. Council is asked to approve amendments to the Scheme of Delegation in Part Two of the Constitution to reflect this permanent sub-delegation.

5.6 **Committee Terms of Reference**

In order to ensure the terms of reference for the Health and Wellbeing Board reflect the appropriate councillor appointments to the Board it is proposed that the membership section of the terms of reference is revised. It is proposed that the revised Voting membership will read as follows (deletions shown as struck through, additions show as bold):

“Voting Members:

City Council Portfolio Holder for Adults, Commissioning and Health

~~City Council Portfolio Holder for Community Services~~

City Council Portfolio Holder for Children’s Services

~~City Council Portfolio Holder for Community Safety, Housing and the Voluntary Sector~~

Two further City Councillors

Three representatives from the NHS Nottingham City Clinical Commissioning Group’s Board

Chief Operating Officer of the NHS Nottingham City Clinical Commissioning Group

City Council Corporate Director of Children and Adults (Director of Children’s Services vote)

City Council Director of Adult Social Care (Director of Adult Social Services vote)

Director of Public Health

One representative of the Board of Healthwatch Nottingham

One representative from the NHS Commissioning Board”

5.7 In order to accurately reflect the responsibilities of the Planning Committee in relation to Local Development Documents, to include the following wording in the Planning Committee terms of reference:

“To be consulted, and provide comments to Executive Board, on draft Local Development Documents.”

5.8 **Executive Portfolios**

Following a change to portfolio responsibilities, Council is asked to note that amendments will be made to Section Seven (Formal Roles and Responsibilities) of Part Two of the Constitution transferring responsibility for Commercial, Operational Investment Land and Property and Reputation and Communications to the Portfolio Holder for Strategic Regeneration and Development.

5.9 **Amendment to Standing Orders**

In order to ensure the factual accuracy of questions submitted by councillors it is proposed that Part Four of the Constitution is amended to include the provision for the Corporate Director of Resilience to refer questions back to the questioner if the question contains a factual inaccuracy. In cases where the inaccuracy is extreme, and the inaccuracy will cause reputational damage to the Council, the Lord Mayor will have the discretion (in consultation with the Corporate Director for Resilience) to refuse the question. This will safeguard the credibility of the Council whilst ensuring that the questions submitted by councillors are factually accurate, saving officer time and Council expense in resulting research.

5.10 It is proposed that questions must be received by the Corporate Director of Resilience by 9.00am on the working day before the meeting of the Council at which they are to be asked.

5.11 **Employment Procedure Rules**

A report to Council on 18 May 2015 outlined the introduction of the new regulations, The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015. Council agreed to apply these regulations pending a general review of the Employment Procedure Rules to ensure that they were compliant with legislation. In order to reflect the new legislation and the significant changes which have been made to the Council's employment structure and workforce, the Employment Procedure Rules have been revised and are attached at Appendix 1 for Council's approval. These will replace the existing Employment Procedure Rules in Part 4 of the Constitution.

6. FINANCE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY)

6.1 The proposals in the report have no significant financial implications for the Council.

7. LEGAL AND PROCUREMENT 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 An EIA is not needed, as the report does not contain proposals or financial decisions.

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

The Council's Constitution version 7.17
The Local Government Act 2000

The Local Authority (Public Health, Health and Wellbeing Boards and Health
Scrutiny) Regulations 2013
Planning and Compulsory Purchase Act 2004

COUNCILLOR JON COLLINS
LEADER OF THE COUNCIL