

CITY COUNCIL – 8 MAY 2017

REPORT OF THE LEADER

AMENDMENTS TO THE CONSTITUTION AND APPOINTMENT OF INDEPENDENT PERSON FOR STANDARDS

1 SUMMARY

- 1.1 The Local Government Act 2000 requires Council to keep its Constitution up to date. The amendments to be reported and/or agreed are outlined below.
- 1.2 Councillors may wish to make reference to the current Constitution, which can be viewed on line via the following link: <http://www.nottinghamcity.gov.uk/about-the-council/nottingham-city-councils-constitution/>. If you have any difficulty accessing the Constitution, please contact Constitutional Services on 0115 8763759.
- 1.3 The Council is required to appoint an Independent Person to support its investigation of any complaints that a Councillor or Co-opted Member has breached the Code of Conduct.

2 RECOMMENDATIONS

- 2.1 To agree the changes in the operation of Overview and Scrutiny, as outlined in paragraphs 5.1, 5.2, 5.3 and 5.4 below.
- 2.2 To agree the changes to the operation of Licensing and Regulatory and Appeals Committees, as outlined in paragraph 5.5 below.
- 2.3 To note the amendments to the Health and Wellbeing Board Commissioning Sub Committee terms of reference, as outlined in paragraph 5.6 below.
- 2.4 To approve the amendments to Part 2 (including the attached Terms of Reference) and Part 4 of the Constitution required by the above changes.
- 2.5 To appoint an Independent Person to perform the following roles:
- to assist the Council in investigations into Member conduct,
 - to be invited to act as an Independent Person in cases of possible dismissal of the Chief Executive, Monitoring Officer or Chief Finance Officer, as outlined in paragraphs 3.4 and 5.7 – 5.9 below.

3 REASONS FOR RECOMMENDATIONS

- 3.1 The Local Government Act 2000 requires Council to keep its Constitution up to date.
- 3.2 An Independent Remuneration Panel (IRP) met during November and December 2016 to review the Members' Allowances Scheme. The scheme had not been reviewed in full since December 2005 and since the last full review significant changes to the roles and responsibilities had taken place, including changes in the operation of Overview and Scrutiny and Licensing. The IRP made a number of recommendations in relation to the Members' Allowances Scheme, however, before some of the recommendations can be implemented some structural changes to the operation of the governance framework is required. This report seeks approval for these structural changes.

- 3.3 In March 2017 the Health and Wellbeing Board amended the terms of reference for the Health and Wellbeing Board Commissioning Sub Committee to reflect a change in role regarding oversight of a new Section 75 Agreement for the commissioning of Tier 2 Child and Adolescent Mental Health Services.
- 3.4 The Council is required to appoint an Independent Person to support its investigation of any complaints that a Councillor or Co-opted Member has breached the Code of Conduct. Appointments must be made by Full Council following an open recruitment process.

4 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 4.1 The Constitution ensures clarity of rights and duties to enable Council to conduct its business lawfully and in line with Council policy. Not to update the Constitution is therefore not an option.
- 4.2 The appointment of an Independent Person is required by statute. Not to make an appointment is therefore not an option.

5 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 5.1 An Independent Remuneration Panel (IRP) met on four occasions during November and December 2016 before submitting their recommendations to the City Council in January 2017. Nottingham City Council adopted the IRP's recommendations in full, however before some of the Panel's recommendations can be implemented some structural changes to the operation of the governance framework are required. The IRP acknowledged the pivotal governance role exercised by the Chair of the Overview and Scrutiny Committee but proposed a re-alignment of the Special Responsibility Allowances (SRAs) attached to the scrutiny function, deleting the SRAs attached to the positions of Scrutiny Panel Chairs and establishing SRAs for the positions of two scrutiny vice-chairs. In making these recommendations the IRP was clear that the vice chairs of Overview and Scrutiny would have enhanced responsibilities, including each chairing a standing committee and leading individual overview and scrutiny reviews.
- 5.2 It is therefore proposed that the Chair of Overview and Scrutiny will chair the Overview and Scrutiny Committee, the Overview and Scrutiny Call-in Panel, and any review panels established by the Committee and will perform a wider governance role, for example, a consultative role on urgent decisions (in accordance with Overview and Scrutiny Procedure rules). It is proposed that the Overview and Scrutiny Vice-Chairs will each chair one of the remaining scrutiny committees (Health Scrutiny Committee and Children and Young People Scrutiny Committee). The Chair of the Health Scrutiny Committee will also chair the Joint City and County Health Scrutiny Committee every other municipal year, in rotation with a Chair from the County Council. The Scrutiny Vice-Chairs will also chair any review panels established by their respective committees, deputise for the Overview and Scrutiny Chair on the wider governance role when required to do so and act as vice-chair of both Overview and Scrutiny Committee and Overview and Scrutiny Call-in Panel.
- 5.3 It is also proposed to reinvigorate the co-option of overview and scrutiny members from outside the Council by removing non-statutory co-opted members to the Overview and Scrutiny Committee. The non-statutory co-optees appointed to Overview and Scrutiny Committee were made at a time when it reviewed services relevant to children and young people in the city. In September 2015, the Council established the Children and Young People Scrutiny Committee, to which co-option would be more appropriate. Overview and Scrutiny Committee retains the ability to

appoint additional non-statutory co-opted members to sit on the Committee or a Review Panel and the need for co-opted members will continue to be determined and based on an assessment of what will be beneficial to the delivery of the work programme.

- 5.4 For scrutiny work that deals wholly or partly with education issues there is a statutory requirement to involve specific co-opted members and it is proposed that these co-optees are appointed to the Children and Young People Scrutiny Committee.
- 5.5 An examination of Licensing Committee workload also suggests a realignment of the responsibilities of the Chair of Licensing Committee and the Panel Chairs is necessary. The IRP's recommendations, to delete the SRAs attached to the positions of Licensing Panel Chairs replacing them with a single Vice-Chair of Licensing, and to combine the SRAs for the positions of Chair of Licensing and Chair of Regulatory and Appeals into a single SRA for a Chair of Licensing were agreed by Council in January 2017. It is therefore proposed that Council agrees to the positions of Chair of Licensing and Chair of Regulatory and Appeals be amalgamated into a single role with one individual chairing both bodies. It is also proposed to abolish the role of Licensing Panel chair with all Panel work now being chaired by the Chair of Licensing and the Vice Chair of Licensing (remunerated with an SRA).
- 5.6 In February 2017 Nottingham City Council and NHS Nottingham City Clinical Commissioning Group agreed to develop a Section 75 Agreement for the commissioning of Tier 2 Child and Adolescent Mental Health Services (CAMHS) from 1 April 2017. The governance of the Section 75 Agreement will be undertaken by the Health and Wellbeing Board Commissioning Sub Committee in order to provide robust, cross organisational oversight. In March 2017 the Health and Wellbeing Board agreed to amend the terms of reference for the Health and Wellbeing Board Commissioning Sub Committee to reflect this change in role.
- 5.7 All Councillors are subject to the Council's Code of Conduct. Any complaints that a Councillor has breached the Code of Conduct are investigated in accordance with the Council's complaints procedure. When investigating such complaints the Council is required at certain stages to seek the views of an Independent Person and take these into account before reaching a decision. The post of Independent Person is currently vacant.
- 5.8 The law requires the Independent Person to be appointed by Council following an open recruitment process. This process has been carried out by the Monitoring Officer who has recommended that Nigel Cullen is appointed as the Council's Independent Person for Standards following an assessment of his written application. Council is asked to approve this appointment.
- 5.9 The involvement of two Independent Persons is also required in cases of possible dismissal of the Chief Executive, Monitoring Officer or Chief Finance Officer. The Independent Person for Standards will assume one of these positions and a further Independent Person will be appointed should the need arise.

6 FINANCE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY)

- 6.1 There are no financial implications related to the recommendations in this report. The financial impact associated with the Members' Allowances Scheme was reported to Council on 16 January 2017.

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 or appoint an Independent Person 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 this report contains no changes to policy.

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 The Council's Constitution version 7.21.
- 10.2 Members' Allowances Scheme – Report of the Independent Remuneration Panel, 16 January 2016.
- 10.3 Local Government Act 2000 and the Localism Act 2011

**COUNCILLOR JON COLLINS
LEADER OF THE COUNCIL**