

## DRAFT

<b>DECISION-MAKER:</b>	FULL COUNCIL
<b>SUBJECT:</b>	CHANGES TO THE CONSTITUTION
<b>DATE OF DECISION:</b>	18 <sup>TH</sup> MAY 2011
<b>REPORT OF:</b>	DIRECTOR OF CORPORATE SERVICES
<b>STATEMENT OF CONFIDENTIALITY</b>	
None	

### **BRIEF SUMMARY**

This report sets out the annual review of the Constitution carried out by the Council's Monitoring Officer (the Solicitor to the Council). This was considered and discussed by Standards and Governance Committee on 18<sup>th</sup> April 2011 in its governance role. Full Council is the ultimate decision-making body as to the Council's Constitution.

### **RECOMMENDATIONS:**

- (i) to agree the changes to the Constitution as set out in this report;
- (ii) to authorise the Solicitor to the Council to finalise the arrangements as approved by Full Council and make any further consequential or minor changes arising from the decision(s) of Full Council; and
- (iii) to approve the City Council's Constitution, as amended, including the Officer Scheme of Delegation for the municipal year 2011/12.

### **REASONS FOR REPORT RECOMMENDATIONS**

1. It is appropriate for the Council to keep its Constitution under regular review and to amend it, both to reflect experience and changing circumstances.

### **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

2. The Council resolved in May 2002 to review its Constitution on an annual basis. Therefore, it is appropriate that this report is considered by Members. There are a range of recommendations set out within the report. Members have a range of options about various changes recommended to them, not least of which is to reject some or all of them.

### **DETAIL (Including consultation carried out)**

3. This report was considered by Standards and Governance Committee on 18<sup>th</sup> April 2011. The committee's comments are embodied within this report.

### **Background Information**

4. The Constitution of the Council describes the way in which the Council conducts its business. It contains not only the Articles of the Constitution, but also the various rules and procedures for decision-making, access to information, Overview and Scrutiny, the Codes of Conduct, the Officer / Member Protocol, as well as other specific rules relating to contracts and finance.
5. The Constitution forms the cornerstone of effective corporate governance. Whilst Southampton City Council's constitutional arrangements continue to be recognised as being of a high standard, Full Council agreed in May 2002, on the recommendation of the Solicitor to the Council, that it would on an annual basis robustly review the Constitution and its operation. The purpose of this

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report is to bring forward proposed changes to the Constitution, these having been considered by Standards and Governance Committee (in its governance role) with a view to build upon the constitutional arrangements for the Council.

### **Executive arrangements**

6. The legal responsibility for determining Executive arrangements, namely who are the Executive Members, the Portfolios and any Executive delegations to officers, lie in the hands of the Leader. The Leader will be elected by the Annual General Meeting (AGM), at which point s/he will determine this issue. This will have constitutional impact, since the arrangements will need to be incorporated within the Council's Constitution after the AGM.

### **Appointment of Members to various bodies: Schedule 3 of Part 3 of the Constitution**

7. The AGM will determine the composition of the Committees and Sub-Committees, in terms of political proportionality, and it is then a matter for the Group Leaders to notify the Solicitor to the Council of their representation in accordance with that calculation upon the Council's committees and sub-committees. In addition, there will be non-Executive appointments to various bodies and organisations which will also be addressed. This will then be incorporated within Part 3 of the Constitution to reflect the decisions of Full Council.

### **The Localism Bill**

8. The Localism Bill has now been published. There are a number of aspects which could have a constitutional impact. Specific details of these areas will be brought forward in due course and, of course, are entirely dependent upon what the ultimate content and shape of the Act is. But based on the content of the Bill, there may need to be constitutional amendments to reflect:
  - a. any decision-making route enabling the authority to return to the pre-Local Government 2000 committee system;
  - b. any specific provisions relating to either obligations to or options to adopt a directly-elected Mayor model by a different route;
  - c. the revocation of the Members' Code of Conduct and abolition of the Standards Board for England;
  - d. the requirements for petition schemes to be repealed;
  - e. clarification on the rules of pre-determination and bias; and
  - f. obligations in relation to transparency and openness relating to, for example, senior officer pay.
9. As indicated above, further details of these matters will be brought forward as and when the Act receives Royal Assent, depending upon what is necessary in terms of any constitutional changes.

### **Employment and Appeals Panel**

10. In light of the increase of matters that require determination by the Panel, consideration has been given as to whether revisions are required to the constitution of the Panel, the frequency of meetings and indeed, whether it is needed to discharge the employment functions of the Council as the final internal appeal body. For the time being it is not considered necessary to make

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any changes but the Director of Corporate Services is requested to review the position later in the year to see whether changes are merited.

### **Licensing (General) Sub Committee**

11. On 4<sup>th</sup> November 2010 the Licensing Committee resolved to reduce the membership of the sub committee from seven members to three with effect from the start of the new Council year to bring it in line with the Licensing and Gambling Acts Sub Committee, with a quorum of 2. Upon reflection, in order to bring this in line with the Council's Constitutional position it is proposed that this be revised to a quorum of three as with other decision making bodies. The rules regarding substitution of members relates to this arrangement to ensure the sub committee will always be quorate.

### **Overview & Scrutiny Management Committee and the arrangements for Overview and Scrutiny**

12. The current arrangements in governance terms for Overview and Scrutiny are that there is a parent committee, Overview and Scrutiny Management Committee (OSMC), and three scrutiny panels – Panels A, B and C.
13. There is a statutory obligation for the Council to ensure that its overview and scrutiny activities encompass the Crime and Disorder Reduction Partnership and key decisions of the health agencies in the city.
14. OSMC considered scrutiny structures at its meeting on 14<sup>th</sup> April 2011 and determined that OSMC will, in addition to the current duties performed:
  - a. deliver the statutory function for the scrutiny of crime and disorder matters and will meet annually to deliver this function;
  - b. undertake a reduced programme of scrutiny inquiries within the monthly meetings of the committee.
15. One standing scrutiny panel will be retained; this will be named the Health Overview and Scrutiny Panel, and this panel will deliver the statutory functions for health matters including representation from Southampton LInk, and will meet bi-monthly with the ability to schedule additional meetings as necessary to undertake the statutory functions required of it.

### **Officer Scheme of Delegation and Proper Officers**

16. The existing Constitution enables the Solicitor to the Council to vary the current Officer Scheme of Delegation by moving delegations between officers when there are organisational restructures taking place. The current reorganisation of the senior management structure of the Council and the resultant changes to the structure of the directorates will inevitably result in a significant change in the current Officer Scheme of Delegation, as delegations will have to be realigned to fit within the new organisational structure. This will be undertaken in accordance with the constitutional requirements.
17. In addition, it should be noted that within the Constitution there is a segment that deals with the roles and responsibilities of "Proper Officers" of the Council. The term is used to encompass the three statutory officers of the authority, that is to say the Head of Paid Service, Chief Financial Officer and Monitoring Officer. It also encompasses other officers holding roles where the Council is required to appoint an officer to that role, for example, the Director of Children's Services.
18. This part of the Constitution has been revised to take account of both recent

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changes in legislation as well as changed appointments, and it is recommended that henceforth, the Solicitor to the Council should be able to update this part of the Constitution, making amendments and appointments as necessary and required, both by changes to the law and by changes to personnel, whether associated with the Council or associated with other partners or bodies where they are carrying out the Proper Officer role on behalf of the Council.

### **Civic and Ceremonial Protocol**

19. It has been a number of years now since the opportunity was taken to refresh the Civic and Ceremonial Protocol, and in the light of experience, it is proposed to amend the Protocol to reflect both some changes in emphasis and operational practice undertaken over the last few years, including but not limited to the establishment of a Mayor's Charity, registered with the Charity Commission as well as various other amendments reflecting experience and operation of civic office.
20. A revised version of the Civic and Ceremonial Protocol is incorporated at Appendix 1.

### **Politically Restricted Posts**

21. The Council is legally required to hold a list of its politically restricted posts. Those that fall into this category have restrictions placed on them in respect of political activity that the individuals in those posts may undertake.
22. The law has changed in relation to these arrangements, and whilst there is no right of appeal for politically restricted postholders in specified posts, that is to say there is a certain list of specified posts where the postholder would be subject to restrictions on their political activities, eg the Head of Paid Service and Monitoring Officer, Director of Children's Services and the Director of Adult Social Services, other posts described as "sensitive" posts, namely postholders who are required to give regular advice to Council, committees, sub-committees or speak on a regular basis on behalf of the authority to journalists or broadcasters are described as "sensitive" posts, and the Council's Standards and Governance Committee will consider appeal from employees in sensitive posts who wish to appeal the designation of their posts as such if they feel that they cannot influence policy or that the authority has not properly applied the criteria.
23. Accordingly, the terms of reference of Standards and Governance Committee will be amended to enable the Committee to hear such appeals.

### **RESOURCE IMPLICATIONS**

#### **Capital/Revenue**

24. None.

#### **Property/Other**

25. None.

### **LEGAL IMPLICATIONS**

#### **Statutory power to undertake proposals in the report:**

26. The Executive Arrangements and Constitution are required under the Local Government Act 2000 (as amended). Other matters referred to in the report are addressed in the Local Government Act 1972 as well as the Local Government

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and Public Involvement in Health Act 2007. The statutory powers to undertake proposals set out in this report are dealt with on a paragraph-by-paragraph basis as stated within the report.

### **Other Legal Implications:**

27. None.

### **POLICY FRAMEWORK IMPLICATIONS**

28. None.

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**KEY DECISION?** Yes/No

<b>WARDS/COMMUNITIES AFFECTED:</b>	
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### **SUPPORTING DOCUMENTATION**

**Non-confidential appendices are in the Members' Rooms and can be accessed on-line**

#### **Appendices**

1.	Revised version of the Civic and Ceremonial Protocol
2.	

#### **Documents In Members' Rooms**

1.	
2.	

#### **Integrated Impact Assessment**

Do the implications/subject of the report require an Integrated Impact Assessment (IIA) to be carried out.	Yes/No
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#### **Other Background Documents**

**Integrated Impact Assessment and Other Background documents available for inspection at:**

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.		
2.		