

<b>DECISION-MAKER:</b>	FULL COUNCIL
<b>SUBJECT:</b>	CHANGES TO THE CONSTITUTION
<b>DATE OF DECISION:</b>	16 MAY 2012
<b>REPORT OF:</b>	HEAD OF LEGAL, HR AND DEMOCRATIC SERVICES
<b>STATEMENT OF CONFIDENTIALITY</b>	
None	

### **BRIEF SUMMARY**

This report sets out the annual review of the Constitution. This was considered and discussed by Standards and Governance Committee on 16<sup>th</sup> April 2012 in its governance role. In light of the significant revisions made last year only minor revisions are contemplated this time. 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 Head of Legal, HR and Democratic Services 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 2012/13.

### **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 16th April 2012. The committee's comments and amendments are embodied within this report and the appendices.

### **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 that it would on an annual basis robustly review the Constitution and its operation. The purpose of this 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 Democratic Services Manager on behalf of the Head of Legal, HR and Democratic Services 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. New appointments will include those to the shadow Health and Well-being Board as a precursor to the transfer of health responsibilities to the Council next year and the shadow Police and Crime Panel (the arrangements for which are subject to a separate report on the Council agenda) again in preparation for the new arrangements that come in to being after the Police Commissioner elections in November 2012.

### **The Localism Act 2011**

8. The Localism Act is now in force although many sections still await commencement orders. There are a number of aspects which will or may have a constitutional impact. Specific details of these areas will be brought forward in due course as and when more detail emerges. Based on the content of the Act, 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 requirements for a statutory petition schemes which could now be ceased;
9. A separate report will be considered by Council at this meeting in relation to standards issues and the significant changes required pursuant to Chapter 7 of the Localism Act 2011 including the deletion of the Standards and Governance Committee and expansion of the current Audit Committee to include the revised ethics, probity and standards obligations, adoption of a new Members Code of Conduct, new register of interests and appointment of independent members

## **Use of Resources**

10. The Use of Resources by Members Guidance was approved by Standards and Governance Committee, which last considered amendments to the guidance at its meeting on 20<sup>th</sup> April 2009. The Use of Resources by Members Guidance is linked to the Member Code of Conduct and is therefore part of the Council's Constitution.
11. The document has now been reviewed in respect of changes that have occurred, especially in response to the Council's current budgetary position and the efficiency savings that have been required which have highlighted a need for greater clarification of rules and procedures and a tightening up of the interpretation of these rules under the "use of resources" by Members. This will mean that some of the work previously undertaken on behalf of Members which duplicates work undertaken in other departments is an inefficient use of resources or which is used solely to effect public support will cease. Examples include Planning letters, hard copy letters which could be sent by email or other media, letters which are unconnected to case work, or in the case of Cabinet Members, portfolio enquiries. Full details of the changes are highlighted in Appendix 1 and in the revised Constitution of the Use of Recourses document available in Group Rooms and published on the web.

## **Employment and Appeals Panel**

12. 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 and other functions of the Council as a final internal appeal body. It is the intention to formulate proposals for a more streamlined process whilst still closely adhering to the ACAS codes on employment issues and protocols and consult with the unions before bringing an item to Council.

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

13. No changes are currently proposed to scrutiny arrangements.

## **Financial Procedure Rules**

14. Changes have been made to the Financial Procedure Rules to reflect the new organisational arrangements and also to strengthen and more clearly define the requirements in response to key changes in the financial landscape. These changes relate to the revenue virement rules which have been amended such that all virements in excess of £200,000 will be presented to Cabinet for approval in order to ensure adequate scrutiny of changes in the use of resources as befits the current financial climate in which Local Government is operating. Additionally, specific rules which have been included to explicitly cover the Housing Revenue Account in response to the introduction of self financing. See Appendix 3.

## **Officer Scheme of Delegation**

15. The existing Constitution enables the Head of Legal, HR and Democratic Services to vary the current Officer Scheme of Delegation by moving delegations between officers when there are organisational restructures taking place. The recent reorganisation of the senior management structure of the

Council and the resultant changes to the structure of the directorates have resulted in a significant change in the current Officer Scheme of Delegation, as delegations have been realigned to fit within the new organisational structure.

16. In addition it is considered that it would be expedient to revise the delegation scheme to include the matters detailed in Appendix 2.

### **Petition Scheme**

17. Whilst the Localism Act 2011 has repealed the statutory obligation on the Council to have a petition scheme it is considered that it remains useful for the public to use this route should they wish, to bring to the Council's attention significant issues. Therefore no changes to the scheme are proposed save for the removal of an appeal to Overview and Scrutiny Committee if they feel their petition has not been dealt with properly.

### **RESOURCE IMPLICATIONS**

#### **Capital/Revenue**

18. If Council is minded to delete the Standards Committee and include its role within a revised Governance Committee there will be a minor revision to the members allowance scheme. In addition a set payment will need to be made to the Designated Independent Person(s). Such changes can be met from within existing budgets.

#### **Property/Other**

19. None.

### **LEGAL IMPLICATIONS**

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

20. 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 and Public Involvement in Health Act 2007 and Localism Act 2011.

#### **Other Legal Implications:**

21. None.

### **POLICY FRAMEWORK IMPLICATIONS**

22. None.

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**KEY DECISION?** Yes/No n/a

<b>WARDS/COMMUNITIES AFFECTED:</b>	None
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### **SUPPORTING DOCUMENTATION**

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

#### **Appendices**

1.	Proposed changes to the Use of Resources
2.	Proposed Changes to the Officer Scheme of Delegation
3.	Proposed Changes to Financial Procedure Rules

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

None.

#### **Integrated Impact Assessment**

Do the implications/subject of the report require an Integrated Impact Assessment (IIA) to be carried out.	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.	None.	
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