

**Council**

**24 May 2023**

**Annual Review of the Constitution**



---

**Report of Helen Lynch, Head of Legal & Democratic Services and Monitoring Officer**

**Councillor Amanda Hopgood, Leader of the Council**

**Electoral division(s) affected:**

All

**Purpose of the Report**

- 1 To present the proposed changes to the Council's Constitution following the annual review process.

**Executive Summary**

- 2 The Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people.
- 3 The Constitution is reviewed on an annual basis. The last review of the Constitution was presented to Council for adoption on 25 May 2022.

**Recommendation(s)**

- 4 Council is recommended to:
  - (a) note the exercise of delegated powers under Table 1, paragraph 12 of the Officer Scheme of Delegation by the Corporate Director of Resources to appoint an Independent Person to the Standards Committee on an interim basis.
  - (b) approve the proposed changes to the Constitution to take immediate effect
  - (c) Request that the Head of Legal and Democratic Services publishes the amended Constitution on the Council's website.

## Background

- 5 Section 9P of the Local Government Act 2000 requires local authorities operating executive arrangements to prepare and keep up to date a document (their constitution) which contains:
- (a) a copy of the authority's standing orders;
  - (b) a copy of the authority's code of conduct for its members and co-opted members;
  - (c) such information as the Secretary of State may direct, and
  - (d) such other information (if any) as the authority considers appropriate.
- 6 The Council must ensure that copies of their constitution are available at their principal office for inspection by members of the public at all reasonable hours and must supply a copy of their constitution to any person on request.

## Methodology

- 7 Preparations for the annual review of the Constitution due to be considered by Council on 24 May 2023 commenced in the autumn of 2022, with service representatives being contacted to request that they consider what, if any, changes they believed were appropriate to the Constitution.
- 8 The proposed changes are set out below. Where applicable, relevant extracts of the Constitution showing the proposed changes are provided in appendices 2 - 25 of this report. A table summarising of the proposed changes is included at appendix 26.

## Publication

- 9 Durham County Council's Constitution is published on the Council's website at [www.durham.gov.uk/constitution](http://www.durham.gov.uk/constitution). At present, it appears as a single pdf document. It is proposed that this be retained.
- 10 In addition to retaining the composite document, it is recommended that the Constitution homepage of the Council's website also provide hyperlinks to the individual parts of the Constitution, downloadable as separate pdf documents, with the intention of making the document quicker and easier to navigate.
- 11 A suggested new 'home page' appears at **Appendix 2** to this report.

## **Format and Appearance**

- 12 It is proposed that the following changes be made to the Constitution's format and appearance:
- (1) That the Council's logo appearing on the first page of the document be updated and the Council's corporate colours incorporated throughout. This is intended to refresh the appearance of the document whilst maintaining its accessibility.
  - (2) That the table appearing on the first page of the Constitution (list of alternative languages) be removed and replaced with 'If you need this information summarised in another language or format, please call 03000 260000'. This is intended to make the document as inclusive as possible.
  - (3) That section headers be added throughout, e.g. 'Part 1', 'Part 2' etc). This is intended to make the document easier to navigate.
  - (4) That each Part have a separate contents page and be internally numbered using the Part number as a prefix, e.g., 1-1, 1-2, 1-3, etc. This is in order for page numbering to remain consecutive should individual parts of the Constitution be uploaded to the website separately.
- 13 These proposed changes are illustrated in the extract appearing at **Appendix 3**.

## **Part 1 – Summary and Explanation**

- 14 Some minor amendments have been made to the Glossary of Terms which appears in Part 1 of the Constitution. These are:
- (1) The statutory definition of 'Exempt Information' has been amended. The existing text, which refers to amendment legislation, is not a complete definition of 'exempt information'. This is contained in Schedule 12A to the Local Government Act 1972.
  - (2) Within the definition of 'Leader of the Council', the reference to a 'political party' has been amended to 'political group' to reflect that members of a group may be members of different political parties.
  - (3) The definition of 'Scheme of Delegation' has been amended to reflect proposed changes to the arrangement of sections within the Constitution set out below.
- 15 These changes are shown in **Appendix 4**.

## Arrangement of Sections

- 16 At present:
- (a) the matters which have been reserved to full Council and those which have been delegated to a committee or sub-committee of the Council are contained within Part 2, Article 4, save that:
    - (i) the terms of reference of the Overview and Scrutiny Committees are set out in Part 2, Article 5; and
    - (ii) the terms of reference of the Standards Committee are set out in Part 2, Article 7;
  - (b) the matters which are the responsibility of the Executive appear in Part 2, Article 6;
  - (c) joint arrangements appear in Part 2, Article 8; and
  - (d) Officer Delegations appear in Part 3.
- 17 It is suggested that these all be moved and grouped together in Part 3 of the Constitution, which be re-named 'Allocation of Responsibilities, in order to make the Council's scheme of delegation easier to follow.
- 18 The proposed arrangement of sections within Part 3 is shown in **Appendix 5**.

## Article 4 – the Full Council

- 19 It is proposed that an introductory paragraph be added, and existing paragraphs 4.4 to 4.17 moved to a new Part 3A 'Matters Reserved to the Council and Terms of Reference and Delegation of Duties to Committees and Sub-Committees of the Council'. These proposed changes are shown in **Appendix 6**.

## Article 5 – The Executive

- 20 It is suggested that Articles 5 and 6 be re-ordered so that Article 5 becomes 'The Executive'. This is simply to reflect that the Council operates Executive arrangements.
- 21 It is proposed that existing paragraphs 6.1 and 6.8 (responsibility for Executive functions) be moved to a new Part 3B 'Terms of Reference and Delegation of Duties to the Cabinet and Portfolio Holders'.
- 22 These proposed changes are shown in **Appendix 7**.

## **Article 6 – Overview and Scrutiny Arrangements**

- 23 As indicated above, it is suggested that Articles 5 and 6 be re-ordered so that Article 6 becomes ‘Overview and Scrutiny Arrangements’.
- 24 It is proposed that existing paragraphs 5.2 – 5.6 (terms of reference of the various Overview and Scrutiny Committees) be moved to the new Part 3A ‘Matters Reserved to the Council and Terms of Reference and Delegation of Duties to Committees and Sub-Committees of the Council’, so that the terms of reference of all of the Council’s committees sit together in a single Part.
- 25 These proposed changes are shown in **Appendix 8**.

## **Article 7 – The Standards Committee**

- 26 It is proposed that paragraphs 7.2 and 7.3 (Composition and Role and Function) be moved to the new Part 3A ‘Matters Reserved to the Council and Terms of Reference and Delegation of Duties to Committees and Sub-Committees of the Council’. This again is so that the terms of reference of all of the Council’s committees sit together in a single Part.
- 27 These proposed changes are shown in **Appendix 9**.

## **Article 8 – Joint Arrangements**

- 28 It is proposed that Paragraph 8.6 (Existing Joint Arrangements) be moved to Part 3A ‘Matters Reserved to the Council and Terms of Reference and Delegation of Duties to Committees and Sub-Committees of the Council’.
- 29 These proposed changes are shown in **Appendix 10**.

## **Part 3A – Matters Reserved to the Council and Terms of Reference and Delegation of Duties to Committees and Sub-Committees of the Council**

- 30 As indicated above, it is proposed that the matters reserved to full Council and the terms of reference and delegation of duties to committees be extracted from Part 2 Articles 4 – 8 and grouped together in a new Part 3A.
- 31 At present, these are arranged in alphabetical order. Alphabetical ordering means that the matters reserved to Council presently appear after the matters delegated to the Corporate Parenting Panel. It has also resulted in the committees carrying out Licensing functions (the General Licensing and Registration Committee and the Statutory Licensing Committee) and those carrying out Planning functions (the Area Planning Committees and the County Planning Committee) becoming separated from one another.

- 32 It is proposed that paragraphs be re-ordered so that Full Council appears at the top of the list, followed by Overview and Scrutiny, then committees exercising regulatory functions, other committees, and, finally, Joint Arrangements. Within those groupings, it is proposed that an alphabetical arrangement be maintained, save that Licensing and Planning committees be grouped together.
- 33 These changes are shown in the index to the proposed new Part 3A, which appears at **Appendix 11**.

### **Standards Committee**

- 34 The following additions to the terms of reference of the Standards Committee are proposed. These are shown in **Appendix 12**.
- (1) To approve the arrangements under which allegations of a failure to comply with Council's Code of Conduct for Members can be investigated and decisions on allegations can be made, pursuant to section 28(6) of the Localism Act 2011.
  - (2) To approve the appointment of at least one independent person to discharge the functions set out in section 28(7) of the Localism Act 2011.
- 35 For the avoidance of doubt, whilst it is proposed that approval of the Local Assessment Procedure and the Local Determination Procedure for member complaints be delegated to the Standards Committee, together with the approval of Independent Persons appointed under those procedures, it is suggested that responsibility for approving the adoption and/or variation of the Code of Conduct itself be retained by Full Council.
- 36 On 21 February 2023, the Corporate Director of Resources exercised delegated authority under Table 1, paragraph 12 of the Officer Scheme of delegation to appoint Karen Milner as Independent Person to the Standards Committee on an interim basis. It was necessary to make this appointment to ensure the Council had access to an Independent Person whilst its substantive Independent Person was unable to act for a period of time. It was not practicable to convene a meeting of Council to make the appointment. The Chair of the Standards Committee was supportive of the approach. The proposal to delegate the appointment of Independent Person to the Standards Committee will enable such appointments to be made more quickly than if they have to wait for the next available Council meeting.

- 37 The Standards Committee have subsequently conducted a recruitment exercise for Independent Persons and will be seeking to appoint three candidates subject to Council delegating responsibility for this to the Committee. In the event Council decides not to delegate the responsibility, a report will be presented to Council in June 2023.

### **Police and Crime Panel**

- 38 A minor amendment to the terms of reference of the Police and Crime Panel is proposed in order to clarify that co-opted members of that panel have voting rights. This is shown in **Appendix 13**.
- 39 No other substantive changes are proposed to the terms of reference and delegation of duties to committees and sub-committees.

### **Part 3B – Terms of Reference and Delegation of Duties to the Cabinet and Portfolio Holders**

- 40 The terms of reference of the Executive have been extracted from Part 2, Article 6, and placed in a new Part 3B, so that the 'Allocation of Responsibilities' all sit together within Part 3 of the Constitution. No substantive changes to the content are proposed. These proposed changes are shown in **Appendix 14**.

### **Part 3C – Officer Delegations**

- 41 As a result of the addition of Parts 3A and 3B, identified above, 'Officers Delegations' has become 'Part 3C'.

#### **Delegations to the Chief Executive**

- 42 The following additions have been made to the scheme of delegations to the Chief Executive (Table 2):
- (i) To approve officer severance payments of £20,000 and above, but below £100,000, in consultation with the Leader and the Portfolio Holder for Finance.
  - (ii) To discharge any function of the Executive in relation to communications.
  - (iii) To carry out any executive function in relation to Corporate Affairs, Policy, Planning, Performance and Communications, with the following matters delegated to the Head of Corporate Affairs:
    - To develop, implement and keep under review an effective internal and external communications strategy, which maintains the strong brand and reputation of the Council.

- To lead on the development of the Council Plan.
- To develop, implement and keep under review an effective performance management framework.

These proposed amendments are shown in **Appendix 15**.

- 43 The proposed amendment in relation to officer severance payments implements statutory guidance issued by the Government on 12 May 2022 under section 26 of the Local Government Act 1999, '[Statutory Guidance on the Making and Disclosure of Special Severance Payments by Local Authorities in England](#)' which requires payments of £100,000 and above to be approved by full Council. Council has previously delegated this responsibility to the Chief Officers Appointments Committee.
- 44 The approval of officer severance payments below £20,000 must be approved in accordance with the local authority's scheme of delegation. Under the Council's scheme of delegation, authorisation for such payments would fall to the Head of Legal and Democratic Services.
- 45 The proposed amendments in relation to communications and corporate affairs, at paragraph 38 (ii) and (iii) above, reflect changes to organisational structure, with these existing functions having previously been delegated to either the Director for Regeneration, Economy and Growth or the Corporate Director for Resources.

#### **Delegations to the Director for Regeneration, Economy and Growth**

- 46 A specific delegation, approved by Cabinet on 18 January 2023, has been included in respect of the approval of property acquisitions up to the value of £500k where the property is to be used as a children's home, to be exercised in consultation with the section 151 officer and relevant portfolio holders.
- 47 Minor and/or technical changes have been made to the scheme of delegation to the Director for Regeneration, Economy and Growth (Table 3) to more accurately reflect current staffing structures and work done by the directorate. These changes are set out in **Appendix 16** and may be summarised as follows:
- (1) Responsibility for Communications has been transferred to the Chief Executive.
  - (2) Reference to Neighbourhood Planning has been inserted.
  - (3) The post of Head of Development and Housing has been re-named Head of Planning and Housing.

- (4) Reference to providing advice or assistance to a parish council, neighbourhood forum or community organisation that is producing a Neighbourhood Plan or Order has been added to the list of matters which are delegated to the Head of Planning and Housing.
- (5) Reference to responding to consultations on Planning, Housing, Transport and Economic Policy has been added to the list of matters which are delegated to the Head of Planning and Housing.
- (6) Responsibility for the provision and operation of CCTV has been moved from the Head of Transport and Contract Services to the Head of Planning and Housing.
- (7) Reference to service, receipt and action upon legal notices and permissions relating to land and property has been added to the list of delegations to the Head of Corporate Property and Land.

### **Delegations to the Corporate Director of Adult and Health Services**

- 48 Minor and/or technical changes have been made to the scheme of delegation to the Corporate Director of Adult and Health Services (Table 4). These changes are shown in **Appendix 17** and may be summarised as follows:

Under the list of Executive Functions:

- (a) At paragraph 1, the words “who have social care needs” have been added to the reference to prisoners.
- (b) At paragraph 5, ‘AHS’ has been inserted in relation to the corporate complaints procedure. At paragraph 8, the wording of the duty to cooperate with statutory partners in respect of violent or sexual offenders has been amended to more accurately align with the legislative provision.
- (c) At paragraph 6, a delegation to establish and amend a charging policy for Adults Social Care has been added.
- (d) At paragraph 10, the words “and wellbeing” and “who have social care needs” have been added to the reference to adults and young people moving into adulthood.
- (e) At paragraph 13, the list of functions arising under the Care Act 2014 has been expanded to include:
  - i. Working with the NHS to ensure safe hospital discharge of people with care and support needs.

- ii. Providing access to advocacy for anyone who would otherwise have substantial difficulty in making decisions about their care and support.
- iii. To have in place a Safeguarding Adults Board.

Under the list of Specific Delegations:

- (f) At paragraph 3, the reference to 'Clinical Commissioning Group' has been replaced with 'North East and North Cumbria Integrated Care Board'.
- (g) References to the Director of Integrated Community Services and Head of Integrated Strategic Commissioning have been deleted.

### **Delegations to the Director of Public Health**

- 49 Delegations to the Director of Public Health have been moved into a separate table to reflect the fact that, in respect of certain statutory functions, reporting is direct to the Chief Executive, rather than to the Corporate Director of Adult and Health Services. These are shown in **Appendix 18**.
- 50 This new table has been numbered 'Table 5' and subsequent tables re-numbered accordingly.

### **Delegations to the Corporate Director of Children and Young People's Services**

- 51 Minor and/or technical changes have been made to the scheme of delegation to the Corporate Director of Children and Young People's Services (existing Table 5) to more accurately align with statutory wording and the scope of work done by the directorate. The proposed amendments are set out in **Appendix 19** and may be summarised as follows:
  - (a) "To act as the statutory officer under section 18(1) of the Children Act 2004" etc added.
  - (b) "To manage the Council's function as Local Education Authority" etc added.
  - (c) The wording of the Council's statutory duties in relation to mental health services for children and young people has been amended.
  - (d) Reference to Cooperation Agreements and Partnerships has been removed.

- (e) Reference to the statutory requirement under section 39(1) of the Crime and Disorder 1998 in respect of the formation of a Youth Justice Services has been added.
- (f) The wording of the Council's powers and duties in relation to children and young people with Special Educational Needs and Disabilities has been amended.
- (g) The approval of foster parents and the establishment and maintenance of an adoption service has been added.

52 The table has also been re-numbered as 'Table 6' following the insertion of a new Table 5, as set out in paragraph 49 above.

### **Delegations to the Corporate Director of Neighbourhoods and Climate Change**

53 Minor and/or technical changes have been made to the scheme of delegation to the Corporate Director of Neighbourhoods and Climate Change (existing Table 6) to reflect service changes and include reference to the Government Migration Programme in respect of refugees and asylum seekers. These are set out in **Appendix 20** and may be summarised as follows:

- (a) To amend the title of the post 'Head of Property and Land' to 'Head of Corporate Property and Land'.
- (b) To amend the title of the post 'Head of Technical Services' to 'Head of Highway Services'.
- (c) To add to the matters delegated to the Head of Partnerships and Community Engagement 'To plan the requirements for welcoming and supporting refugees and individuals seeking asylum, including capacity within the County as part of the Government Migration Programme.'

54 The table has also been re-numbered as 'Table 7' following the insertion of a new Table 5, as set out in paragraph 49 above.

### **Delegations to the Corporate Director of Resources**

55 Minor and/or technical changes have been made to the scheme of delegation to the Corporate Director of Resources (existing Table 7) to reflect restructure within the directorate, legislative changes and otherwise amend wording to more accurately reflect the scope of work done by the directorate. These are set out in **Appendix 21** and may be summarised as follows:

- (a) To move the function of Service Review and Improvement to the Chief Executive's delegations.
- (b) To delete reference to Archives and Records, responsibility for which having been transferred to the Director for Regeneration, Economy and Growth.
- (c) To delete reference to the Transformation Programme.
- (d) To add policy development and the administration of Government funded financial support schemes to the list of Transactional and Support Services.
- (e) To move the following functions from Corporate Finance and Commercial Services to Transactional and Customer Services:
  - (i) Completion of statutory submissions of council tax and business rates returns.
  - (ii) To establish and amend/update the Council Tax Exemption for Care Leavers Policy and administer applications under this policy.
  - (iii) To establish and amend/update the Council's Discretionary Rate Relief Policies and administer applications under these schemes.
  - (iv) To establish and amend the Council Tax Discretionary Reduction Policy and Business Rates Hardship Relief Policy and administer applications for relief under these.
- (f) To delete repetitious entries and make other minor amendments to wording.
- (g) To move the following functions from Corporate Finance and Commercial Services to the Head of Legal and Democratic Services:
  - (i) To appoint Assistant Coroners in accordance with the provisions of the Coroners and Justice Act 2009.
  - (ii) To deal with the payment of Coroner's expenses.
  - (iii) To authorise expenditure within the approved budget for civic hospitality.
- (h) Under the list of specific delegations relating to Corporate Finance and Commercial Services:

- (i) To amend the wording relating to the exercise of budgetary control functions.
  - (ii) To add 'The operation and development of the Council's financial systems'.
  - (iii) To delete the reference to insurance.
  - (iv) To delete the reference to EU financial sanctions.
- (i) Under the list of specific delegations relating to Pensions:
  - (i) To amend the wording in relation to the payment of death grants.
  - (ii) To amend the wording in relation to dependants' pensions.
  - (iii) To amend the wording in relation to employee admission into the Pension Fund.
  - (iv) To add reference to the Local Pension Board in relation to member training.
  - (v) To amend the reference to 'Statement of Investment Principles' to 'Investment Strategy Statement'.
  - (vi) To insert reference to 'responsible investment'.
  - (vii) To amend the wording in relation to the Funding Strategy Statement from 'all the specific risks that can be identified' to 'identified risks'.
  - (viii) To amend the wording in relation to Board to Coast Pensions Partnerships Ltd to include 'alternative investments'.
  - (ix) To insert provision for quarterly reporting to the Local Pension Board.
- (j) To move the following functions from HR and Employee Services to the Head of Legal and Democratic Services:
  - (i) To coordinate the Member Training and Development Programme.
- (k) Under the list of HR and Employee Services:
  - (i) To amend the wording in relation to potential redundancy situations from "To offer alternative employment" etc to "To seek to offer".

- (ii) To add “The operation and development of HR and Payroll systems.”
- (l) To insert reference to the following (existing) functions relating to Procurement, Sales and Business Services:
  - (i) To exercise the contractual approval functions referred to the Corporate Director under the Council’s Contract Procedure Rules.
  - (ii) To ensure appropriate contractual arrangements across the Council in relation to the receiving of goods, works and services.
  - (iii) To ensure appropriate procurement arrangements are in place in respect of pooled DCC and NHS (or other Partner(s) or Bodies) monies held by DCC on behalf of those named bodies or partners.
  - (iv) To approve variations as set out in the Contract Procedure Rules or elsewhere in this Constitution.
  - (v) To authorise the collection of income from commercial activities.
  - (vi) To authorise the use of professional services via the approved neutral vendor model delivery strategy.
- (m) To move the following functions from Corporate Finance and Commercial Services to Internal Audit, Fraud, Risk and Governance:
  - (i) To maintain an effective internal audit service.
  - (ii) To act as lead officer for the Audit Committee.
  - (iii) To act as the Risk Management Officer Champion and ensure appropriate risk management arrangements are in place across the Council.
  - (iv) To act as lead officer for maintaining effective corporate governance arrangements and the preparation of the Annual Governance Statement.
- (n) To insert reference to maintaining an effective corporate fraud service.
- (o) To insert reference to the following functions relating to Digital Services:

- (i) Taking operational decisions necessary to secure the provision of digital and ICT services and/or discharge statutory functions, including the power to enter into contracts, in accordance with the approved policies and Financial Procedure Rules including, but not restricted to the following:
  - (ii) Maintenance and review of an appropriate IT and Digital Service, including a council-wide strategy and support for all business systems.
  - (iii) Development, maintenance and assurance of all internal and external IT solutions/systems.
  - (iv) Management of the Council's resources and assets, systems, digital and information technology and maintenance and ongoing delivery of Operational ICT.
  - (v) The governance/assurance of technical delivery and strategy pertaining to Cyber Security, Smart Place and Digital Place agendas, including Digital Inclusion.
  - (vi) Maintaining the delivery of Change Services: Solution Architecture & Design ensuring the ongoing delivery of Digital Services to citizens, the council, and communities.
- (p) To re-order paragraphs to show that certain functions are specifically delegated to the Head of Legal and Democratic Services.
- (q) To add the following to the list of matters specifically delegated to the Head of Legal and Democratic Services:
- (i) In consultation with the Chair of the Standards Committee, to approve any temporary appointment of an independent person to discharge the functions set out in section 28(7) of the Localism Act 2011 where the position is vacant or an existing appointee is unable to act.
  - (ii) To approve officer severance payments of less than £20,000, in line with the statutory guidance set out at paragraph 39 above.
  - (iii) To deal with the payment of Coroner's expenses.
  - (iv) To appoint Assistant Coroners in accordance with the provisions of the Coroners and Justice Act 2009.
  - (v) To authorise expenditure within the approved budget for civic hospitality.

Function (i) should be read in conjunction with the proposed delegation of permanent appointments to the Standards Committee (see paragraph 34 above).

Function (ii) should be read in conjunction with the proposed delegation of severance payments between £20k and £100k to the Chief Executive (see paragraph 41 above).

Functions (iii), (iv) and (v) have been moved from the responsibility of Corporate Finance.

- 56 The table has also been re-numbered as 'Table 8' following the insertion of a new Table 5, as set out in paragraph 49 above.
- 57 The Head of Legal and Democratic Services has delegated authority to make technical changes to the Constitution and as such the scheme of delegations will be updated to ensure that the work within the Directorate is accurate, consistent with legislative terminology, reflects staffing structures and existing arrangements.

### **Council Procedure Rules**

- 58 The following amendments to the Council Procedure Rules are proposed:
- (a) *Duration of Meetings*: that rule 4.2 be deleted and rule 10.7 apply in respect of expiry of the time limit for motions and the overall duration of meetings. There is currently an inconsistency between those two rules. The process that is followed under 10.7 would ensure that, where business is time sensitive and cannot be deferred, it can be dealt with allowing for a limited number of speeches.
  - (b) *Notice of Questions*: that rules 9.3 and 9.9 be amended to require notice of questions to be submitted to a dedicated email address. This is intended to avoid a scenario where emails sent to named individuals are overlooked.
  - (c) *Scope / Content of Questions*: that rules 9.5 and 9.13 be amended so that rule 9.5 applies equally to both Members of the Council and members of the public and repetition removed. This proposed change will mean that the scope/content of questions for Council is consistent with the scope/content of questions for Cabinet.
  - (d) *Notice of Motions*: that rule 10.2 be amended to require notice of motions (other than urgent motions) to be submitted to a dedicated email address.
  - (e) *Time Allowed for Motions*: to amend rule 10.7 to provide that the Chair alert the meeting when 15 minutes of the 30-minute time limit

(or such longer period to which Council has consented) for motions has expired.

- (f) *Requirement to Submit Motions in Writing*: given that it is a requirement that motions are provided in writing, it is suggested that the title of rule 12.2 be amended to “requirement to submit motions in writing”.
- (g) *Reasonable Adjustments*: a new rule 22 is proposed, which would give the Chair discretion to make reasonable adjustments for disabled persons.

59 These proposed changes are shown in **Appendix 22**.

### **Financial Procedure Rules**

60 Changes proposed to the Financial Procedures Rules are shown in **Appendix 23** and summarised below:

- New paragraph added to Rule 2, ‘The Role of Overview and Scrutiny Committees’;
- New paragraph added to Rule 4, ‘Contracts, Agreement and Purchasing’;
- Reference to the Housing Revenue Account deleted;
- Other minor amendments required to ensure that the rules reflect current practice, guidance and relevant legislation;
- Appendix A (Schedule of Financial Management Standards) updated and re-ordered to follow the order in which these appear in the main body of the Financial Procedure Rules.

### **Contract Procedure Rules**

61 No substantive changes are recommended to the Contract Procedure Rules; however, minor amendments have been made to aid clarity and reflect legislative changes. The proposed changes appear in **Appendix 24**.

### **Part 5: Codes and Protocols**

62 It is suggested that the codes and protocols be re-ordered so that the Codes of Conduct for Members and Employees sit together. The suggested order is shown on the index appearing in **Appendix 25**.

## Employee Code of Conduct

- 63 A minor amendment is proposed to the Employee Code of Conduct: Our Values, Behaviours and Conduct to clarify that employees may accept token gifts from services users (for example, flowers or a box of chocolates) where to refuse may cause offence. This proposed amendment is shown in **Appendix 26**.

## Code of Practice for Members and Officers Dealing with Planning Matters

- 64 In relation to attendance at site visits by Members of the Planning Committees, the Council's Code of Practice for Members and Officers Dealing with Planning Matters presently provides as follows:

*"10. Site Visits by the Committee*

*10.1 A site visit is only likely to be necessary if:*

- (a) the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers;*
- (b) the comments of the applicant and objectors cannot be expressed adequately in writing; or*
- (c) the proposal is particularly contentious.*

*10.2 Site visits will be organised in accordance with the following procedures:*

- (e) When a site visit is held prior to the meeting of the Planning Committee it is desirable that all members attending the Planning Committee should also attend the site visit. Members voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application."*

- 65 Consideration has been given to making it compulsory for Members of the Planning Committees to have attended any site visit(s) organised in accordance with the Code of Practice prior to participating in, and voting at, the committee determining the relevant planning application. Officers do not recommend such an amendment at this time as it is considered that this may lead to difficulty in achieving quorate meetings.

## Summary of Proposed Amendments

- 66 A table summarising the amendments proposed in this report is set out in **Appendix 27**.

**Background papers**

67    None

**Other useful documents**

68    None

**Author(s)**

Helen Lynch, Head of Legal and Democratic Service

Tel: 03000 269732

Jayne La Grua, Governance Lawyer

Tel: 03000 261314

---

## **Appendix 1: Implications**

---

### **Legal Implications**

The statutory requirements in relation to the Council's Constitution are set out in paragraph 5 of this report.

### **Finance**

The review of the Constitution has no financial implications

### **Consultation**

Relevant officers and the Constitution Working Group have been consulted on the proposed changes to the Constitution. The report will be presented to Cabinet on 15 March 2023 and to Full Council on 25 May 2023.

### **Equality and Diversity / Public Sector Equality Duty**

None specific within this report.

### **Climate Change**

None specific within this report.

### **Human Rights**

None specific within this report.

### **Crime and Disorder**

None specific within this report.

### **Staffing**

None specific within this report.

### **Accommodation**

None specific within this report.

### **Risk**

None specific within this report.

### **Procurement**

None specific within this report.