

REPORT FOR RESOLUTION

Report to: Constitutional and Nomination Committee – 24 March 2010
Council – 24 March 2010

Subject: Amendments to the Constitution of the Council

Report of: The City Solicitor

Purpose of the Report

The report proposes various revisions to the Constitution of the Council largely arising as a result of the change in the Council's Executive arrangements under the Local Government and Public Involvement in Health Act 2007.

Recommendations

1. That the Council adopt the Parts of the Constitution attached as an appendix to this report to give effect to changes in the Council's executive arrangements under the Local Government and Public Involvement in Health Act, namely:

Part 1
Part 2
Part 3 (Sections A and B)
Part 4 (Sections A and D)
2. That these changes take effect on 9 May 2010 (that is three days after the local elections in 2010) in accordance with the requirements of the Local Government and Public Involvement in Health Act 2007.
3. That the Council note that the remaining Parts of the Constitution remain in force but that the City Solicitor will be bringing forward a further report to the annual meeting of the Council with any amendments required in relation to those remaining Parts.

Financial Consequences for the Revenue Budget: None

Financial Consequences for the Capital Budget: None.

Wards Affected: All.

Implications for:

Antipoverty	Equal Opportunities	Environment	Employment
No	No	No	No

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Background Documents (available for public inspection)

Constitution of the Council – May 2009

Background

- 1.1 Section 37 of the Local Government Act 2000 requires a local authority which is operating executive arrangements to prepare and keep up to date a Constitution. Manchester City Council adopted a Constitution on 12th September 2001 when it began operating executive arrangements. Since then, several changes have been made to the Constitution at and between subsequent annual meetings.
- 1.2 The City Solicitor will submit a report to the annual meeting of the Council on 19 May bringing forward for approval further revisions to the Constitution to reflect changing operational needs and statutory requirements.
- 1.3 However, changes to the executive arrangements adopted by full Council on 2 December 2009 require changes to be made to the Council's Constitution which must come into effect no later than the third day after the local elections in 2010 (i.e. 9th May 2010). To bring these changes into effect, Council is asked to adopt Parts 1, 2, 3 (sections A and B) and 4 (sections A and D) of the Constitution, which are detailed below and set out in the appendix to this report.

Changes to Executive Arrangements

- 2.1 The Local Government and Public Involvement in Health Act 2007 introduced amendments to the Local Government Act 2000 (LGA 2000). These include a requirement for the executive of a local authority in England to take one of the two forms specified in sections 11 (2) and 11 (2A) of the LGA 2000 (as amended) – either a “new-style” Leader and Cabinet Executive or an elected Mayor and Cabinet Executive.
- 2.2 Following a wide-ranging public consultation held in late Summer 2009, Manchester City Council formally resolved to adopt the “new-style” Leader and Cabinet executive model of governance at a meeting specially convened for that purpose on 2 December 2009.
- 2.3 Section 11 (2A) of the LGA 2000 (as amended) provides that where a local authority in England decides to operate a “new-style” Leader and Cabinet executive, then this is to consist of:
 - (a) a councillor of the authority (referred to as the executive leader) elected as leader of the executive by the authority, and
 - (b) two or more councillors of the authority appointed to the executive by the executive leader.

Section (3) of Schedule 1 to the LGA 2000 (as amended) provides that the executive leader must appoint one of the members of the executive to act as the deputy executive leader.

- 2.4 Section 13 of the LGA 2000 (as amended) determines which of the functions of a local authority are to be exercised by an executive of the authority under executive arrangements (“the executive functions”). Regulation 3 and Schedule 2 to the Local Authorities (Functions and Responsibilities) (England)

Regulations 2000 enable local authorities to decide whether certain specified functions of the local authority are to be responsibility of the executive or of the Council (so-called "Local Choice functions"). At its meeting on the 2 December 2009 the Council resolved that its "Local Choice" functions should be discharged as set out in the report to Council of 2 December 2009.

- 2.5 Section 14 of the LGA 2000 (as amended) provides that where a local authority in England decides to operate a "new-style" Leader and Cabinet Executive, the Leader may determine to exercise any of the executive functions of the local authority personally, or may arrange for the exercise of any of the local choice functions by:
- (a) the executive
 - (b) by another member of the executive
 - (c) by a committee of the executive
 - (d) by an officer of the authority.

- 2.6 In summary, the main features of the "new-style" Leader and Cabinet governance arrangements adopted by the Council are:

- (a) that the "new-style" Leader will be elected by the full Council
- (b) the normal term of office of the "new-style" Leader will be the shorter of four years or expiry of their term of office as a Councillor
- (c) the Council shall have the power to remove the "new-style" Leader before the end of their term of office by way of resolution in accordance with the provisions of the Council's Constitution;
- (d) the "new-style" Leader will appoint Cabinet members, including a Deputy Leader, and will determine their portfolios (currently the Leader and Cabinet are both elected by full Council);
- (e) the "new-style" Leader will be responsible for discharging the Council's executive functions or arranging for their discharge by others.

3.0 Constitutional amendments

- 3.1 The main amendments needed to the Council's Constitution as a result of the Council's resolution to change its executive arrangements are to:

- Article 7 (which relates to the executive);
- the Council Procedure Rules;
- the Executive Procedure Rules.

Article 7

This article relates to the Executive. The proposed amendments reflect the statutory requirements relating to:

- The term of office of the "new-style" Leader (Article 7.3);
- The requirement for the "new-style" Leader to appoint a Deputy Leader (Article 7.4);

- The requirement of the “new-style” Leader to appoint, in addition to the Deputy Leader, between one and eight further Executive Members to hold such Portfolios as the Leader shall determine (Article 7.5);
- The fact that from 19 May 2010 onwards the Leader of the Council will be responsible for discharging the Council’s executive functions or arranging for their discharge by others (Article 7.10(b)). Article 7.10(c) provides that the Monitoring Officer should maintain a Register of Delegations of Executive Functions and record any alterations to the allocation of responsibility for the discharge of executive functions.

3.3 Article 7.4(e) gives effect to the statutory provisions that if the Leader or Deputy Leader are unable to act, the Executive must either act in the Leader’s place or arrange for an Executive member to act in the Leader’s place. The Executive may wish to determine in advance which Executive Member would act in the Leader’s place in these circumstances.

3.4 Article 7 also provides that where the Leader appoints, removes or makes substantive changes to the detailed remits of the Deputy Leader or Executive Members, he or she will report this to the Executive and to Council.

The Council Procedure Rules

3.5 Council Procedure Rules 7.1, 7.2 and 13.3(e) have been amended to reflect the statutory position that the “new-style” Leader will not be appointed at every Annual Meeting.

3.6 Council Procedure Rule 7.3 has been amended to reflect that the “new-style” Leader (and not the full Council) will appoint a Deputy Leader and up to eight further members of the Executive.

The Executive Procedure Rules

3.6 Executive Procedure Rule 1.1 and 1.2 have been amended to reflect the new governance arrangements.

3.7 Executive Procedure Rule 1.4 has been inserted to reflect the statutory position that the Leader may alter the delegations in respect of the discharge of the Council’s executive functions in accordance with the procedure set out in this rule.

Other Amendments

3.8 A new introduction has been written for Part 3 of the Constitution, which provides an explanation of how the Local Government Act 2000 divides the Council’s functions into “Executive”, “Non-Executive” and “Local Choice”.

3.9 In addition to the main amendments to the Constitution that are referred to above, there will also be a number of minor amendments to the Constitution that are required as a result of the Council’s change in its governance arrangements.

4.0 Conclusions

The proposed amendments to Parts 1, 2, 3(sections A and B) and Part 4 (sections A and D) of the Constitution are required to reflect the revised statutory position following the Council's resolution to adopt the "new-style" Leader and Cabinet form of executive. These amendments are shown in bold in the appendix to this report.

5.0 Recommendations

Recommendations are set out at the front of the report.