

**Manchester City Council
Report for Resolution**

Report to: Constitutional and Nomination Committee - 16 May 2017
Council - 17 May 2017

Subject Constitution of the Council

Report of: City Solicitor

Purpose of Report

To enable the Council to adopt a revised Constitution.

Recommendations

The Council is recommended:

1. To adopt, subject to 3 below, the attached Parts of the Constitution of the Council, namely –

Part 1
Part 2
Part 3 (Sections A, B, C and F)
Part 4 (Sections E and F)
Part 5 (D and E)
Part 6 (Sections C, D, F and G)
Part 7
Part 8
 2. To re-adopt the other parts of the Constitution namely existing Part 3 (Sections D and E), Part 4 (Sections A to D), Part 5 (Sections A to C) and Part 6 (Sections A, B, and E)
 3. To note in relation to Part 3 that responsibility for the discharge of executive functions and the delegation of such responsibility rests with the Leader of the Council and that the recommended delegations of executive functions as set out in Part 3 (Sections A, B and F) are for the information of Council only.
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Wards Affected: All

Financial consequences for the Revenue and Capital budgets: None

Implications for:

Equal Opportunities
No

Risk Management
Yes

Legal Consideration
Yes

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Background Documents (available for public inspection)

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

- Constitution of the Council – May 2016

Background

1. Section 9P of the Local Government Act 2000, as amended, requires a local authority which is operating executive arrangements to prepare and keep up-to-date a Constitution.
2. The City Solicitor is required to monitor and review the operation of the Constitution on an on-going basis, and, where necessary, bring forward amendments to the Council. The City Solicitor has carried out such a review and brings forward for approval revisions to certain parts of the Constitution which are attached to this report. In addition, those changes which have been agreed by the Council in the course of the last municipal year have been incorporated into the Constitution. New wording appears in bold.
3. It should be noted that under the Leader and Cabinet form of executive, responsibility for the delegation of executive functions, including those local choice functions which the Council has designated as executive functions, does not rest with the Council, but is the responsibility of the Leader. The Leader may determine to exercise executive functions personally or to delegate their discharge to the Executive, a Committee of the Executive, an Executive Member, an area committee or an officer of the Council (without prejudice to the Leader's ability to exercise such functions personally) Where the Leader delegates the exercise of functions to the Executive it may in turn delegate to officers. In these circumstances, the recommended delegations of executive functions as set out in Part 3 (Sections A, B and F) of the Constitution (Responsibility for Functions) are for the purpose of information only.
4. The main changes to the Constitution appear in bold and are summarised below.

Parts 1 and 2 – Summary and Explanation and Articles of the Constitution

5. The Articles of the Constitution and references elsewhere in the Constitution have been changed to reflect that the Greater Manchester Fire and Rescue Authority (GMFRA) has been disestablished and that its functions now sit with the Greater Manchester Combined Authority, to reflect the creation of a new Manchester Clinical Commissioning Group (CCG) as well as to update the list of joint committees. Changes have been made to Article 9 of the constitution in the main to include revisions approved earlier in the year regarding the quorum of any Hearing sub Committee. Minor amendments have also been made to update these Parts so they accord with current legislation.

Part 3 – Responsibility for functions

- 6.1 The main revisions to Part 3 reflect the changes made to the Council's Senior Management structure and revised roles and responsibilities.
- 6.2 Revisions have also been made for clarity and to incorporate legislative updates as well as to reflect changes to responsibilities in the Council's

Contract Procurement Rules. Specific additions have been made to the City Treasurer's delegations to make provision in relation to financial matters e.g. in relation to making court applications for Financial Deputyship orders. A delegation to the Personnel Committee has been added to establish an investigating and disciplinary sub-committee and an appeals sub-committee to specifically deal with disciplinary matters in relation to the Chief Executive, Monitoring Officer and City Treasurer.

Part 4 – Rules of Procedure

- 7.1 The main changes relate to Rule 6 of the Scrutiny Procedure Rules (Section E) where changes have been made to reflect more closely legislative wording. References to GMFRA and CCGs as well as reference to the Office of the Police and Crime Commissioner have been changed to reflect new arrangements.
- 7.2 Changes to the Officer Employment Rules (Section F) have been made in accordance with instructions from HROD to clarify that no disciplinary action will be taken against the Chief Executive, Monitoring Officer and City Treasurer during investigation proceedings and to allow for any suspension during investigation proceedings to be reviewed no later than two months after the suspension began.

Part 5 – Financial Regulations

- 8.1 Part 5 Section D has been amended to reflect that the Capital Gateway Process is now referred to as the Capital Approval Process, to provide that chief officers are now responsible for reconciling imprest accounts and to allow for treasury management reports to be presented to the Audit Committee twice a year (in addition to the annual report to the Executive) to reflect current practice.
- 8.2 The Procurement Rules (Part 5 Section E) have been amended:
 - a. with minor changes to reflect current practice and ensure that the standard Corporate Procurement documents/templates are used, e.g. for waiver applications;
 - b. to reflect changes in procurement rules, for example, removing the 15 days debriefing period for unsuccessful tenderers;
 - c. to provide that consultancy appointments under a certain value require approval by a relevant officer to ensure senior officer approval is obtained;
 - d. to further clarifying the 'most economically advantageous' award criteria to include a reference to 'social value';
 - e. to specifically provide for anti-bribery compliance to be stated clearly in contracts;
 - f. to amend the "Total Value" definition for the purpose of assessing competition requirements to expressly cover framework agreements;
 - g. by including provision for written approval from a member of the Strategic Management Team to waive the Contract Procedure Rules and accept quotations and tenders for contracts and framework agreements above £250,000;

- h. to reflect current procurement practice and small changes to the award of framework contracts.

8.3 These changes have been made in accordance with instructions received from the City Treasurer's Department.

Part 6 – Codes and Protocols.

9.1 The Use of Resources Guidance for Members (Part 6 Section C) Gifts and Hospitality Guidance for Members (Part 6 Section D) and Member/Officer Relations Protocol (Part 6 Section F) have been updated incorporating changes approved by the Council's Standards Committee at its meeting on 16 March 2017.

9.2 Part 6 Section G comprises the new revised Code of Corporate Governance approved by full Council at its meeting on 25 January 2017

Part 7 – Members' Allowances Scheme

10. Changes have been made to reflect the annual uplift in the Basic Allowance and Special Responsibility Allowance as well as the maximum hourly rate for the Manchester Minimum Wage payable under the Child Care and Dependent Carers Allowance.

Part 8 – Management Structure

11. The Management Structure has been updated to reflect the current position. Where necessary, consequential changes have been made throughout the Constitution

Recommendations

The recommendations appear at the front of this report.