

Manchester City Council Report for Resolution

Report to: Council – 16 May 2018
Constitutional and Nomination Committee – 15 May 2018

Subject Constitution of the Council

Report of: Interim City Solicitor

Purpose of Report

To enable the Council to adopt a revised Constitution.

Recommendations

The Council is recommended to:

1. Adopt, subject to 5 below, the attached Parts of the Constitution of the Council, namely –

Part 1
Part 2
Part 3 (Sections A, B, C, D and F)
Part 4 (Sections A, E and F)
Part 5 (Sections B, D and E)
Part 6 (Sections B, C, D and F)
Part 7
Part 8
 2. Agree the deletion of Part 9 (AGMA constitution) from the Constitution
 3. Re-adopt the other parts of the Constitution
 4. Agree the disestablishment of the Wythenshawe Area Committee and approve the consequential changes to the Constitution
 5. 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 and F) are for the information of Council only.
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Wards Affected: All

Financial consequences for the Revenue Budget: None

Financial consequences for the Capital Budget: None

Implications for:

Equal Opportunities
No

Risk Management
Yes

Legal Consideration
Yes

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Background Documents (available for public inspection)

Constitution of the Council – May 2018

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 Interim 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 and F) of the Constitution (Responsibility for Functions) are for the purpose of information only.
4. The changes to the Constitution appear in bold and the main amendments are summarised below.

Part 1 – Summary and Explanation of the Constitution

5. The second paragraph of the summary and explanation has been amended to remove reference to Part 9 of the constitution. The Greater Manchester Combined Authority constitution does not form part of Manchester City Council's (MCC) Constitution and the size of this document means that its inclusion would be impracticable. It is considered appropriate in the circumstances to remove the AGMA constitution, which forms Part 9 of MCC's constitution.

Part 2 – Articles of the Constitution

- 6.1 The Articles of the Constitution have been amended in Article 2 to reflect the all-out elections held in May 2018.
- 6.2 At Article 15.2 additional wording has been inserted to give the Monitoring Officer power (contained in many other Council's constitutions) to make minor amendments to the constitution that do not materially affect it.

- 6.3 Other minor amendments to the Articles have been made for clarity and to delete references which are no longer relevant.

Part 3 – Responsibility for functions

- 7.1 Minor amendments have been made to update these Parts so they accord with current legislation and to reflect in year changes made to the Council's Senior Management Structure and revised roles and responsibilities
- 7.2 A new paragraph has added to the delegations to the Constitutional and Nominations Committee in relation to the City of Manchester Award to reflect changes made by Full Council in October 2017.

Part 4 – Rules of Procedure

- 8.1 The Council Procedure Rules have been amended at Rule 24 to delete references to GM Fire and Rescue and GM Waste Disposal Authority the functions of which have moved to the GMCA and to confirm that a response by the nominated spokesperson of a joint authority or joint committee to a question can be oral, by reference to a publication, or by a written response later to the questioner to accord with current practice in relation to questions of the Leader of the Council or a member of the Executive.
- 8.2 Provision has been made to reflect the creation of the City of Manchester Award for the categories of Outstanding Contribution to Manchester and Honorary Mancunian which was agreed by Full Council in October 2017.
- 8.3 Changes have been made to the Officer Employment Rules in Part 4, Section F to reflect the recommendations of the Personnel Committee made at its meeting held on 7 March 2018, in relation to the disciplinary procedure for the Council's three statutory chief officers.
- 8.4 For clarity and consistency all references to days in Rule 13 of the Scrutiny Procedure Rules (relating to call-in) have been changed to 'working' days. Corresponding changes have been made to Rule 9 of the Council Procedure Rules for consistency.
- 8.5 Minor amendments have been made to update the Rules in Part 4 primarily for clarity and so that they accord with current legislation.

Part 5 – Financial Regulations

- 9.1 The Financial Procedure Rules have been amended in Chapter 3 at Rule 33 (formally 34) - to require notification of all new partnership agreements to the City Treasurer for inclusion in consolidated group accounts and at Rule 73 'Guarantees' have been added to the list of items requiring approval from City Treasurer.
- 9.2 The Contract Procurement Rules have been amended at:

- 9.2.1 Rule 2.1.2 to add a requirement for Officers to “comply with any Council commissioning and contract management policy in force from time to time.”

Rule 2.2.2 – making clear a Chief Officer can authorise other officers to act on their behalf in accordance with the provisions of the Council’s Scheme of Delegation. “

- 9.2.2 Rule 3.6 to include flexibility to use frameworks which include Council as a potential user.

- 9.2.3 Rule 8.1.1 for clarity to exclude the appointment of consultant architects, engineers, surveyors and other professional consultants from the award procedure. Rule 8.5 includes its own requirements for these disciplines.

- 9.2.4 Rule 22 – by the deletion of a requirement to monitor value for money requirements as part of contract monitoring.

- 9.3 Other minor changes have been made to delete defunct references, to accord with current legislation and for consistency and clarity. The changes to Part 5 have been made in accordance with instructions received from the City Treasurer.

Part 6 – Codes and Protocols.

- 10.1 The Use of Resources Guidance for Members, Gifts and Hospitality Guidance for Members and the Member / Officer Relations Protocol have been updated incorporating changes reported to the Council’s Standards Committee in March 2018.

- 10.2 The Planning Protocol has been updated to reflect changes endorsed by the Standards Committee in November 2017 in relation to site visits.

Part 7 – Members’ Allowances Scheme

11. Changes have been made to reflect the annual uplift in the Basic Allowance and Special Responsibility Allowances as well as the maximum hourly rate for the Manchester Minimum Wage payable under the Child Care and Dependent Carers Allowance. Other changes are for clarity and to reflect that the Greater Manchester Waste Disposal Authority functions have been transferred to the GMCA.

Part 8 – Management Structure

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

Wythenshawe Area Committee

13. It is proposed that Wythenshawe Area Committee be disestablished.
Consequential changes have been made throughout the Constitution.

Recommendations

The recommendations appear at the front of this report.