

Manchester City Council Report for Resolution

Report to: Constitutional and Nomination Committee - 9 July 2018
Council – 11 July 2018

Subject: Amendments to the Constitution

Report of: City Solicitor

Purpose of Report

To enable the Council to consider recommendations that the Constitution be amended to:

- provide for the business of the Annual Council meeting being restricted to ceremonial, committee appointments and constitutional matters; and
- allow for the Head of Planning, Building Control and Licensing (in consultation with the Chair of the Planning and Highways Committee) to make arrangements with another local authority to discharge that authority's nonexecutive functions relating to cross-boundary planning matters.

Recommendations

The Council is recommended to agree that:

1. Rule 13.3 of the Council Procedure Rules in Part 4, Section A of the Constitution, be amended by the deletion of paragraphs (h), (i), (j), (m) and (n) to ensure that the business of the annual meeting of the Council is restricted to ceremonial business, business necessary following the local government election of Members earlier in the month and constitutional matters;
 2. Article 11.3(b), in Part 2 of the Constitution, be amended by the addition of the words "(or an officer with relevant delegated authority)" after the word "Council"; and
 3. The following delegation be made to the Head of Planning, Building Control and Licensing – "In consultation with the Chair of the Planning and Highways Committee, to make arrangements with another local authority for the Council to discharge that other authority's non-executive functions relating to cross-boundary planning matters affecting the local authority areas of both the Council and that other authority."
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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
No

Legal Consideration
Yes

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Background Documents (available for public inspection)

Constitution of the Council – May 2018

Item 11 – Dinton Street/Cornbrook, Report to Planning and Highways Committee –
28 June 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 which contains a copy of the authority's standing orders for the time being.
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. Detailed below are two matters that have arisen since Council considered the full review of the Constitution undertaken by the City Solicitor at the annual Council meeting in May.

The Business of the Annual Council Meeting

3. With the exception of petitions requiring debate, the business of the Annual Council meeting consists of the business of an ordinary Council meeting plus ceremonial and other business necessary following the local government election of Members earlier in the month and also constitutional matters.
4. The constitutions of the other Greater Manchester Authorities have been reviewed which has revealed the following:

Local Authority	Notices of motion and questions allowed at their annual Council meeting
Bolton	No
Bury	Constitution not published online
Oldham	Motions – yes Questions - No
Rochdale	No
Salford	No
Stockport	No
Tameside	No
Trafford	No
Wigan	No

5. It can be seen that none of the other Greater Manchester local authorities allow questions at their annual meetings and only one (Oldham) allows notices of motion.
6. To allow more time for the ceremonial and other business necessary following the local government election of Members earlier in the month and also constitutional matters, it is recommended that our Council Procedure Rules be amended such that the following items of business are not considered at the annual Council meeting:
 - (h) Reports of the Executive and questions under Rules 23.1 and 23.2;
 - (i) Reports or minutes of scrutiny committees, including matters referred to Council by scrutiny committees;

- (j) Minutes of other committees and questions under Rules 23.2 and 23.3;
 - (m) Questions to nominated spokespersons of joint authorities (as in Rule 24.1);
 - (n) Notices of motion submitted under Rule 14.1 (to be dealt with in their order of receipt by the Chief Executive).
7. Should this proposal be agreed by Council then any such matters detailed above, that arise following the ordinary meeting of Council held in March each year, will be considered at the first ordinary Council meeting following the annual Council meeting. This will be in July of each year.

Arrangements with another local authority to discharge that authority's nonexecutive functions

8. Section 101 of the Local Government Act 1972 provides for a mechanism whereby local authorities may enter into arrangements where one local authority will discharge the non-executive functions of another local authority. A similar mechanism is provided in respect of executive functions under the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.
9. Article 11.3 of the Council's Constitution, insofar as it relates to non-executive functions, provides that:
- “(a) The Council may delegate non-executive functions to another local authority.
- (b) The Council may make arrangements with another local authority to discharge that authority's non-executive functions.”
10. The Council's constitution does not make any provision for a committee or officer (instead of Full Council) to delegate the Council's non-executive functions to another authority or to make arrangements with another local authority to discharge that other authority's non-executive functions.
11. A neighbouring authority (Trafford MBC) has recently made a decision to delegate certain of its planning functions to the Council, due to a proposed development that would fall largely in Manchester also covering a small area of the neighbouring authority. However, it became apparent that Manchester's constitution provided for no explicit mechanism for this arrangement to be accepted aside from bringing the matter to Full Council.
12. Given the essentially administrative nature of accepting another authority's delegation and entering into arrangements to discharge its functions in the case of cross-boundary planning applications, it is proposed that instead of seeking Full Council approval on each such occasion it would be more appropriate to seek a delegation to the Head of Planning, Building Control and

Licensing enabling her, having consulted with the Chair of the Planning and Highways Committee, to make arrangements with another local authority for the Council to discharge that other authority's non-executive functions relating to cross-boundary planning matters affecting the local authority areas of both the Council and that other authority. Planning decisions in respect of such cross-boundary matters would then be considered in line with the Council's ordinary planning decision-making processes (subject to the particular requirements of the arrangements entered into).

13. No change would be made in respect of the Council delegating its own nonexecutive functions to another local authority, which would remain a matter for Full Council.

Recommendations

14. Recommendations are set out at the beginning of this report.