

APPENDIX A

Proposed Amendments and Additions

Section 1 - Updates Necessitated due to Legislative Change

Part A2 – Purpose of the Constitution

1.1 The constitution is made under Section ~~9P37~~ of the Local Government Act 2000. The purpose of the constitution is to provide a framework of rules governing the way in which the Council exercises its functions and takes decisions. The Council is required to maintain an up to date constitution.

Part A4 – Citizens and the Council

Suggested new paragraph Part A4 paragraph 3.3 to take account of statutory right to film and record council meetings.

Para 3. Information

Citizens have the right to:-

3.3 film, photograph, record or report on any public meeting in accordance with legislation with the exception of any meeting or part of a meeting which is being held in private because confidential or exempt information is being discussed and an appropriate resolution to that effect has been passed.

[see Openness of Local Government Bodies Regulations 2014]

H1 – Proper Officer

Paragraph 3.1 Table of Proper Officers

12.	S.212A-S.9FB Local Government Act 2000	Scrutiny Officer	Director of Improvement and Corporate Services
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Paragraph 4.4 Table of Proper Officer Appointments

17	The Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2000 Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012	Regs 3 and 412 and 13	Recording of collective executive decisions	Monitoring Officer
18		Regs 5, 6, 9 and 11 14 and 15	Compilation and availability of background papers, agenda and connected reports in relation to executive decisions	Monitoring Officer
19		Regs 12 and 15 10	Publicity in connection with the forward plan and giving notice etc. in cases of urgency	Monitoring Officer
20		Reg 17 16	Rights of access to documents for councillors	Monitoring Officer

Receipt and recording of Members' interests is now required under Sections 29 and 30 Localism Act 2011 by the Monitoring Officer rather than proper officer under S.96(2) of the Local Government Act 1972 therefore remove row 29 and renumber.

H3 - Delegations

Paragraph 4.7 – Director of Public Health

Further powers and functions contained in the Health and Social Care Act 2012

4.7.4 To exercise such other functions relating to public health as prescribed under the Health and Social Care Act 2012 and as may be prescribed by the Secretary of State, including those functions under the Licensing Act 2003 that are prescribed by the NHS Bodies and Local Authorities (partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012

Section 2 – Fitness of Purpose

Amendment to reporting requirement for MO when exercising delegated authority to amend the constitution.

Part A5 Paragraph 2.3

2.3 The Monitoring Officer shall make urgent amendments to give effect to any decision of the Council or changes in the law, and minor amendments such as to correct errors or to ensure that the constitution is up-to-date. Any such changes will be published on the Council's website on a quarterly basis and report to the next scheduled meeting of GPC.

Clarification of Process for Assessing Shared and Collaborative Arrangements

Part I3 – Code of Procurement Governance

New paragraph 6:

- 6. Processes for the Assessment and Implementation of Shared Service or Collaborative.**
 - 6.1 Inter-municipal collaboration or shared services, is an increasingly prevalent form of service provision within the public sector due to the potential for costs efficiencies to be derived from economies of scale and the relative flexibility they enable in establishing such arrangements. These arrangements are in many cases exempt from the procurement regulatory regime and as such not subject to the formal requirements of tendering etc.*
 - 6.2 However, it is essential that any proposed shared service arrangement is subject to open and rigorous challenge to establish the business case rationale for proceeding with such an arrangement as an alternative to pursuing a standard outsourcing procurement route or retaining in-house provision. The use of shared services is unlikely to be popular with private sector providers who view these arrangements as negatively impacting upon the market for service provision and as such the potential for challenge is a real possibility.*
 - 6.3 The precise design of the selection processes will vary depending upon the nature of the arrangement and it is essential that appropriate professional advice is obtained in relation to the Legal, Procurement and Financial aspects of the arrangement.*

6.4 *In some cases, a competitive selection process may be appropriate but in all cases it is essential that the Council acts in accordance with general public law principles and good governance and the following list is intended as a guide in how to approach the assessment of such proposals.*

- *Ensure that all aspects of the process, including decision making and supporting evidence, are fully documented and available for audit purposes.*
- *Preparation of a business case is an essential element of this type of assessment.*
- *An options analysis should also be completed and signed off by a Director and elected members.*
- *Obtain legal, procurement and finance advice at an early stage in developing any shared service proposal.*
- *Ensure that processes followed in the selection or assessment of any proposal are objectively fair and reasonable.*

6.5 *Following the above general principles should avoid any sustainable challenges being brought and ensure that any decision making as to the appropriateness of any such arrangement is robust and objectively justifiable on the basis of financial and service benefits for the Council and its residents.*

6.6 *Any partnership shall be required to have a formal mechanism and structure of governance set out in a written document.*

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Governance of Partnerships

Part J3 – Partnerships Protocol

Additional wording for Part J3, Paragraph 1.5.3

1.5.3 *Private Sector Partnerships: Private companies, either in their own right or as part of a public sector partnership entering into a contract with the Council for a considerable period.*

1.5.4 *Public Sector Partnerships through jointly owned companies: These arrangements are becoming more common due to the advantages of using a separate legal vehicle as a basis for shared service delivery. Governance arrangements must be established in order that the Council is able to properly monitor the performance of the company and to exercise control and influence through its ownership rights such as share voting rights.*

Scheme of Delegation – Clarification

Part H3 – Scheme of Delegation

Paragraph 4.2.14 - Clarify delegations to Monitoring Officer by listing within a separate paragraph.

Terms of Reference – Committee Delegation

Part E2 – Paragraph 5.1.9

Clarification of extent of delegation to the General Purposes Committee.

*5.1.9 Oversight of the Council's constitution, including approving, **for recommendation on to Full Council**, any changes that may be required on the advice of the Monitoring Officer;*

Update re Statutory Officers

Part H4 – Officer Employment Procedure Rules

Suggested amendments to paragraph 5 to include reference to grievances.

5. Grievances and Disciplinary Action

5.1 Any grievance involving the Head of Paid Service, Monitoring Officer or Chief Finance Officer will be conducted in accordance with the relevant contractual provisions.

*5.12 **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.*

5.23 Councillors will not be involved in any disciplinary action against any officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to members in respect of disciplinary action.