



Amendments to the Council Constitution

SUMMARY

- 1.1 Several parts of the Council Constitution have been amended to take account of changes previously approved by Council, including the senior management restructure.
- 1.2 The draft of the amended Council Constitution can be found on CMIS and the changes made are detailed in this report.
- 1.3 Drafts of the parts with the most extensive changes – Parts 3 and 4 – have been provided to members of the Audit and Accounts Committee in advance.

RECOMMENDATION

- 2.1 To approve the new Parts 1-8 of the Council Constitution.
- 2.2 To approve the temporary retention of an extract of the existing Scheme of Delegations (reflected as Part 3a) in respect of the Acting Strategic Director of Children and Young People and Acting Strategic of Adults and Health, until such time as a Strategic Director of People Services commences in post.
- 2.3 To note an intention to bring further updated versions of the Financial Procedure Rules to Council in due course, following their consideration by Audit and Accounts Committee.

REASONS FOR RECOMMENDATION

- 3.1 Delegated authority exists for the Monitoring Officer to make circumstantial changes to the Council Constitution. The changes made are more significant and thus require approval of Council.

SUPPORTING INFORMATION

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

- 4.1 Changes made to these sections are mostly minor amendments, such as changes to formatting or to cross-referencing to reflect changes elsewhere in the Constitution.

- 4.2 The most significant change within these sections is in Article 12 – Officers, which has been amended to reflect the senior management restructure approved by Council in July 2015.

Part 3 – Scheme of Delegations

- 4.3 A number of minor changes have been made to the Scheme of Delegations within Part 3 of the Constitution. These include:
- General tidying up of the layout to reduce the overall number of pages;
 - Delegations for the Health and Wellbeing Board have been moved from Section C to Section D so it is listed alongside other non-regulatory committees;
 - For the avoidance of doubt, the Monitoring Officer's delegation to make circumstantial changes (detailed in paragraph 15.2 of Article 15) is repeated on page 5 of the Scheme of Delegations;
 - Reference to overtime within the Director of Governance Delegations (page 19) has been amended to remove reference to the council's old pay line; and
 - The appendix at the end of the Scheme has been amended to use acronyms including a key, to avoid confusion.
- 4.4 Several more significant changes have also been made to reflect matters agreed by Council or other circumstantial changes. These are:
- The overview and scrutiny terms of reference have been re-written to reflect changes adopted by Council in May 2015;
 - The Appointments Panel terms of reference have been redrafted to reflect the council now having four political groups (having been written on the basis of three) and to ensure adherence to new regulations on appointments to Director of Public Health;
 - References to the General Licensing Committee and Taxi Licensing and Appeals Committee have been removed to be replaced with a combined Licensing Committee to reflect changes adopted by Council in May 2015;
 - Terms of reference for Corporate Parenting Committee have been added to reflect changes adopted by Council in May 2015;
 - Terms of reference to the Audit and Accounts Committee have been amended to reflect changes agreed by that committee in 2014;
 - Tier 1 and Tier 2 officers have been specifically excluded from Employee Appeals terms of reference to reflect adoption of new procedures by Council in September 2014 and their subsequent amendment by Council in July 2015; and
 - References to the Investigating and Disciplinary Committee and Disciplinary Appeals Committee have been amended to reflect changes adopted by Council in July 2015.
- 4.5 Following implementation of the senior management restructure, the Strategic Director of Communities and Place role has been filled on an acting basis by the postholder previously appointed as Acting Strategic Director of Neighbourhoods. The delegations in the previously approved Scheme of Delegations and those within the draft amended version therefore transfer seamlessly.

- 4.6 However, responsibility for the new Strategic Director of People Services remains shared at chief officer level between an Acting Strategic Director of Children and Young People and an Acting Director of Adults and Health, until such time as the new post is filled. The existing delegations are therefore retained at Part 3a with the new combined delegations detailed at pages 35, 36 and 37 within Part 3.

Part 4 – Committee Procedure Rules

- 4.7 A number of minor changes have been made to the procedure rules within Part 4 of the Constitution. These include:
- The renaming of the document as 'Committee Procedure Rules', to avoid confusion with the 'Council Procedure Rules' which are contained within it, but which constitute only one part of the section;
 - The 'requirement' for a Standards Committee (Rule CP2(h)) has been removed to reflect this now being a local choice;
 - The option to fax questions for Council meetings within CP14 has been removed to reflect modern means of communication. No faxed questions have been received for at least seven years and the option to submit in hard copy and by email has been shown to be effective;
 - The reference to a 'motion book for public inspection' being available has been removed as this information is now permanently available online (CP39);
 - The words "where reasonable" have been added in respect of the requirement to stand when addressing the Mayor (CP79) to ensure compliance with disability legislation;
 - The addition of CP71b to CP86 provision (suspension of Council Procedure Rules), This should have been done when CP71b was inserted due to a change in legislation in 2013, but appears to have been missed;
 - A caveat has been added in Rule CP101 (not allowing substitutes) to allow for provision that substitutes can attend where specifically agreed by Council, to take account of legislation in respect of the Health and Wellbeing Board. The wording is suitably flexible to future-proof should similar variations be agreed in the future.
 - Removal of Forward Plan as a 'requirement' as this is now a local choice.
- 4.8 Several more significant changes have also been made to reflect matters agreed by Council or other circumstantial changes. These are:
- The addition of a new rule (CP88a) in relation to former Cabinet members involved in scrutiny of own decisions. This is already within the members' code of conduct, but having it here too is more thorough;
 - The removal of Financial Procedure Rules and Contract Procedure Rules in full from this section, as detailed in paragraphs 4.9-4.10 below.
 - The removal of Officer Employment Procedure Rules, as detailed in paragraph 4.13 below.
 - The overview and scrutiny rules have been re-written to reflect changes agreed by Council in May 2015.

Parts 5 & 6 – Financial Procedure Rules and Contract Procedure Rules

- 4.9 For many years both the Financial Procedure Rules and Contract Procedure Rules have been included in the Constitution under 'Part 4 - Council Procedure Rules'. Part 4 is already the largest document within the Constitution, and these two sizeable documents have made the section large and unwieldy.
- 4.10 The two sections are considered to be of such significance that they ought not be buried in the back of an already large document. For ease, it is now proposed that the documents be relocated into Parts 5 and 6 respectively.
- 4.11 Amendments were made to the Contract Procedure Rules in April 2015, and subsequently approved by Audit and Accounts Committee, to reflect new EU regulations. An exercise is underway to update the Financial Procedure Rules to reflect changes including the senior management restructure. These will be presented to Council for approval in due course, having first been considered by the Audit and Accounts Committee.

Part 7 – Codes and Protocols

- 4.12 The Codes and Protocols were previously included as Part 5 but as a result of the changes proposed at paragraphs 4.9 and 4.10, have now been moved to Part 7.
- 4.13 The section now contains the following documents:

Document	Notes
Members' Code of Conduct	Paragraphs renumbered to remove confusion and amendments made in respect of licensing considerations, as recommended by Council on 22 July 2015 (see paragraph 6.1(a) and 6.1(c) within the draft Members' Code of Conduct in Part 7).
Officer Employment Procedures	Relocated from Part 4 to more appropriate section.
Employee Code of Conduct	Most recent version, as approved by Personnel Committee.
Protocol on Member/Officer Relations	Minor amendments only, such as changes to job titles and formatting
Protocol on Use of Facilities, Services and Equipment by Councillors	
Call-in Procedure and Call-in Meeting Procedure	
Planning and Development Control Protocol	
Investigating and Disciplinary Procedures	

- 4.14 The Confidential Reporting Code was previously included within this part of the Constitution, but is now separately referenced via hyperlink in the Employee Code of Conduct.

- 4.15 Also removed are the Website Facilities Terms of Use for Councillors and the Data Protection Guidance. Both contain information in relation to data protection which has been superseded by mandatory member training and information available through both the council's website and the online training portal. It is felt that retaining consistent and controlled guidance through these means is safer than publishing documents within the Council Constitution which could become out of date.

Part 8 – Members' Allowances Scheme

- 4.15 This document is unchanged and will next be reviewed following consideration of the next report from the Independent Remuneration Panel in early 2016.

Deleted sections

- 4.16 Historically, the Council Constitution also included officer structure charts and the Constitutional Appointments. The officer structure charts have been frequently changed due to year-to-year restructures resulting from budgetary pressures in recent years. The Constitutional Appointments change annually. As both of these documents are available on the council website, and to remove the need for formal approval to make changes as and when they occur, it is proposed that they do not form part of the Constitution but remain standalone documents.

OTHER OPTIONS CONSIDERED

- 5.1 Extensive changes were required to the Council Constitution as a result of a large number of amendments arising from Council decisions, and other circumstantial changes, since May. Making no changes is not considered viable as it would leave the Council Constitution out of date for a prolonged period.

This report has been approved by the following officers:

Legal officer	Janie Berry, Director of Governance and Monitoring Officer
Financial officer	N/A
Human Resources officer	N/A
Estates/Property officer	N/A
Service Director(s)	N/A
Other(s)	N/A

For more information contact:	David Walsh 01332 643655 david.walsh@derby.gov.uk
Background papers:	None
List of appendices:	Appendix 1 – Implications Appendix 2 – Draft Council Constitution – available on CMIS at the following link: https://cmis.derby.gov.uk/cm5/MeetingsCalendar/tabid/73/ctl/ViewMeetingPublic/mid/410/Meeting/8157/Committee/1881/Default.aspx

IMPLICATIONS

Financial and Value for Money

1.1 None.

Legal

2.1 There are no legal implications arising from this report, save that the finalised document consolidates a number of changes previously approved by Council resolutions or arising from consequential changes.

Personnel

3.1 None.

IT

4.1 None.

Equalities Impact

5.1 None, save that approval of the fifth bullet point in paragraph 4.7 of the report will better accommodate the needs of people with specific needs.

Health and Safety

6.1 None.

Environmental Sustainability

7.1 None, save that in making formatting changes throughout the document, a priority has been on reducing the number of pages.

Property and Asset Management

8.1 None.

Risk Management

9.1 Although decisions of Council become adopted by virtue of resolutions being passed rather than through their physical insertion into the Council Constitution, it represents good governance to ensure changes are accommodated within the published Constitution as expediently as is reasonable.

Corporate objectives and priorities for change

10.1 None.