



DERBY CITY COUNCIL

COUNCIL
8 SEPTEMBER 2010

DOCUMENT 12

Report of the Director of Legal and Democratic Services as Monitoring Officer

PROPOSED AMENDMENTS TO THE CONSTITUTION

RECOMMENDATION

1. To approve the amendments to the Constitution set out in Appendix 2.

SUPPORTING INFORMATION

- 2.1 It is customary to review and, where necessary, amend the Constitution from time to time. The following amendments are proposed and the details are shown in Appendix 2.

Appointment of Statutory Scrutiny Officer

- 2.2 Section 31 of the Local Democracy, Economic Development and Construction Act 2009 requires that the Council designates one of its officers as statutory scrutiny officer to promote the role of overview and scrutiny and provide support to overview and scrutiny committees (commissions) and their members. The Council may not designate the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer as the statutory scrutiny officer. It is proposed that the Assistant Director – Democratic Services is designated as the Council's statutory scrutiny officer.

Appointment of Electoral Registration Officer and Returning Officer

- 2.3 It is a requirement of Section 8 of the Representation of the People Acts that the Council appoints an Electoral Registration Officer for the City to be responsible for the registration of electors, absent voters etc. The Electoral Registration Officer is also designated as Acting Returning Officer at Parliamentary and European elections.
- 2.4 Section 35 of the same Act requires the Council to appoint a Returning Officer to be responsible for the conduct of local government elections.
- 2.5 Since the retirement of the former Deputy Chief Executive, the Chief Executive has undertaken the above roles on a temporary basis. It is now proposed that the Assistant Director – Democratic Services be formally designated as Electoral Registration Officer and Returning Officer.

Personnel Delegations

- 2.6 Prior to full council in May this year, the Council had a Personnel Committee that was responsible for personnel policy, for organisational changes where costs exceeded £100,000 a year and for disputes over terms and conditions. Full Council in May 2010 abolished the Personnel Committee, along with the Disputes Procedure and the arrangements for Members' involvement in disputes with the trades unions over terms and conditions. The Leader of the Council now wishes to tidy up the decisions that Council made in May by granting the necessary delegation of authority for appropriate officers to resolve these matters.
- 2.7 Previous Government guidance has stated that, other than the appointment and dismissal of the most senior officers (the Chief Executive, Strategic Directors and Service Directors), Members should not be involved in dealing with the terms and conditions of employees.

Public Questions at Full Council Meetings

- 2.8 The Members' Services Working Party is concerned that Public Question Time at full Council meetings is dominated by a small number of people. Members of the public are entitled to ask up to two questions at any Council meeting. The Working Party would like to introduce a system whereby each person who has submitted one or more valid questions would have the opportunity to ask his/her first question and supplementary before any second questions are asked. The Working Party feels that this change would allow greater scope for other members of the public to ask questions at full Council meetings.
- 2.9 It is intended to publicise Public Question Time in order to broaden participation in it.

Sealing of Contracts

- 2.10 In order to provide maximum flexibility, but at the same time ensure control and accountability, it is proposed that the schedule of officers authorised to sign contracts under seal is updated and amended as follows:

Currently Authorised Officers	Proposed Authorised Officers
Director of Corporate and Adult Services	Director of Legal and Democratic Services
Chief Legal Officer	Head of Legal Services – General Section
Principal Solicitors	Head of Legal Services – Children and Adult Care Section
Project Lawyer	Team Leaders – Legal Services

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Background papers:	None
List of appendices:	Appendix 1 – Implications Appendix 2 – Proposed Amendments to Constitution Recommended to full Council on 8 September 2010.

IMPLICATIONS

Financial

1. None.

Legal

2. Under Article 15, changes to the Constitution can only be approved by the full Council after consideration of a report by the Monitoring Officer.

Personnel

3. As set out in paragraph 2.6.

Equalities Impact

4. None.

Corporate Themes and Priorities

5. The Constitution underpins and facilitates many of the Council's Corporate Values and Priorities.

PROPOSED AMENDMENTS TO THE CONSTITUTION RECOMMENDED TO FULL COUNCIL ON 8 SEPTEMBER 2010

1. Appointment of Statutory Scrutiny Officer, Electoral Registration Officer and Returning Officer.

Part 3 – Responsibility for functions and scheme of delegations – Part F Matters that are Delegated to Officers.

Amend reference to Assistant Director, Democratic Services to read:

C Acting as Authorised / Proper Officer for the following matters:

- a. Secretary to the Independent Remuneration Panel for Members Allowances
- b. Electoral Registration Officer and Returning Officer for local government elections. The Electoral Services and Land Charges Manager will act as Deputy Electoral Registration Officer.
- c. Proper Officer for the Registration of Births, Deaths, Marriages and Civil Partnerships.
- d. Scrutiny Officer

List of Statutory Functions – Appendix

Amend the table – Functions Relating to Elections as follows:

Function	Responsible Body	Responsible Officer
1. Duty to appoint an electoral registration officer	Council	Assistant Director – Democratic Services
2. Power to assign officers in relation to requisitions of the registration officer		Assistant Director – Democratic Services
3. Functions in relation to Parishes and Parish councils	Not Applicable	Not Applicable
4. Power to dissolve small Parish Councils	Not Applicable	Not Applicable
5. Power to make orders for grouping Parishes, dissolving groups and separating Parishes from groups	Not Applicable	Not Applicable
6. Duty to appoint returning officer for local government elections	Council	Assistant Director – Democratic Services
7. Duty to provide assistance at European parliamentary elections		Assistant Director – Democratic Services
8. Duty to divide constituency into polling districts	Council	Assistant Director – Democratic Services

Function	Responsible Body	Responsible Officer
9. Power to divide wards into polling districts at local government elections	Council	Assistant Director – Democratic Services
10. Power to approve polling places for polling districts		Assistant Director – Democratic Services
11. Powers in respect of holding elections (parish councils)		
12. Power to pay expenses properly incurred by electoral registration officers		Assistant Director – Democratic Services
13. Power to fill vacancies in the event of insufficient nominations (parish councils)		
14. Duty to declare vacancy in office in certain cases		Assistant Director – Democratic Services
15. Duty to give public notice of a casual vacancy		Assistant Director – Democratic Services
16. Power to make temporary appointments to Parish Councils	Not Applicable	Not Applicable
17. Power to determine fees and conditions for supply of copies of, or extracts from, elections documents		Assistant Director – Democratic Services
18. Power to submit proposals to the Secretary of State for an order under Section 10 (Pilot Schemes for local elections in England and Wales, of the representation of the People Act 2000)	Council	Assistant Director – Democratic Services

2. **Personnel Delegations**

Part 3 – Responsibility for Functions and Scheme of Delegations. Part F – Matters That Are Delegated to Officers.

Paragraph 3.1 – Add bullet point:

- “Officer Employment Procedure Rules”

Delete paragraph 3.2

Paragraph 3.3 – second bullet point:

Delete the words “where there is a cost of less than £100,000 in a financial year and there is budget provision.”

3. **Public Questions at Full Council Meetings**

Part 4 – Council Procedure Rules

Add the following sentence to Rule CP12:

“Where one or more persons has given notice of two questions at a particular Council meeting, questions will be asked in the order notice was received of first or single questions, followed by the order notice was received of second questions.”

4. **Sealing of Contracts**

Part 4 – Contract Procedure Rules – Amend Rule 42.2 to read as follows:

"Contracts under seal must be signed by any two of the following:

- Director of Legal and Democratic Services
- Head of Legal Services – General Section
- Head of Legal Services – Children and Adult Care Section
- Team Leaders – Legal Services"