

Report of the Interim City Solicitor to the meeting of Governance and Audit Committee to be held on Thursday 21 April 2022

AG

Subject:

Proposed amendments to the Constitution following the adoption by Council on 15 March 2022 of the Local Government Association Model Councillor Code of Conduct with amendments.

Summary statement:

This report provides Members with proposed amendments to the Protocols on Member-Officer Relations, Members Gifts and Hospitality and Members Use of Council Resources including Use of E-mail and the Internet for recommendation to Council following the adoption by Council on 15 March 2022 of the Local Government Association Model Councillor Code of Conduct with amendments.

EQUALITY & DIVERSITY:

There are no equality or diversity implications.

Bryn Roberts
Interim City Solicitor

Portfolio:

Corporate

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1. SUMMARY

- 1.1 This report provides Members with details of proposed amendments to the Protocols on Member-Officer Relations, Members Gifts and Hospitality and Members Use of Council Resources including Use of E-mail and the Internet ("The Protocols") for recommendation to Council following the adoption by Council on 15 March 2022 of the Local Government Association Model Councillor Code of Conduct with amendments. The Protocols form part of the Council's Constitution. The report also recommends two amendments to the Constitution for clarity.

2. BACKGROUND

- 2.1 Article 14 of the Constitution requires the Monitoring Officer to maintain an up-to-date version of the Constitution and is authorised to make such amendments to the Constitution and related documents as may be necessary, but not including any changes of substance, to reflect and take account of changes in legislation, guidance, Council policy, decisions of the Council and Executive, and drafting changes and/or improvements.
- 2.2 Article 17 of the Constitution requires the Monitoring Officer to take steps to make himself aware of the strengths and weaknesses of the Constitution and make recommendations for improvement. Changes to the Constitution can only be made following approval by the full Council or by the Monitoring Officer, as set out in paragraph 2.1 above.
- 2.3 On 15 March 2022 on the recommendation of Standards Committee, Council adopted the Members' Code of Conduct ("the Code") as set out in Appendix 4 to this report to be effective from the beginning of the Municipal Year 2022/23.
- 2.4 As a consequence of the adoption of the Code consequential amendments are required to the Protocols on Member-Officer Relations, Members Gifts and Hospitality and Members Use of Council Resources including Use of E-mail and the Internet. ("The Protocols"). The report also recommends two amendments to the Constitution for clarity.
- 2.5 Although Council delegated authority to the City Solicitor to make any consequential amendments to the Constitution following the adoption of the Code in consultation with the Chair of Governance and Audit Committee this report is being brought to Governance and Audit Committee to consider the proposed amendments for recommendation to Council.

3. PROPOSED AMENDMENTS TO THE PROTOCOLS AND CONSTITUTION

- 3.1 The proposed amendments to the Protocol on Member-Officer Relations are set out in Appendix 1, Members Gifts and Hospitality in Appendix 2 and Members Use of Council Resources including Use of E-mail and the Internet in Appendix 3 all shown in red.
- 3.2 The amendments reflect the changes required as a consequence of adopting the Code together with a number of minor amendments to update the Protocols for example updating the caveat Members are advised to provide within emails in

paragraph 7.4.1 in the Protocol on Member- Officer Relations.

- 3.3 It is also recommended that the following paragraphs of the Constitution are amended for clarity as shown in red.

PART 1 SUMMARY AND EXPLANATION

10. The Public's Rights

10.2 *Where members of the public use specific council services, as a parent of a school pupil for example, they have additional rights. These are not covered in this Constitution. All members of the public have the right to:*

- *Complain to the Standards Committee if they have evidence which they think shows that a councillor has acted improperly and not in accordance with the Members' Code of Conduct **under the procedure for considering complaints against Councillors.***

PART 2

Article 3 The Public and the Council

Complaints

3.5 *Members of the public have the right to complain to:*

3.5.3 *The Standards Committee about a complaint that involves an allegation that a councillor has acted in breach of the Members' Code of Conduct **under the procedure for considering complaints against Councillors.***

4. FINANCIAL & RESOURCE APPRAISAL

4.1 The resources required to amend the Protocols which form part of the Council's Constitution can be met from existing provision.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

5.1 The proposed amendments ensure that the Protocols within the Constitution are kept up to date and are consistent with the Members' Code of Conduct adopted by Council on 15 March 2022.

6. LEGAL APPRAISAL

6.1 The legal implications are reflected in this report.

6.2 The adopted Members' Code of Conduct provides that should there be a conflict between the Code of Conduct and the Council's Protocols on Member-Officer Relations, Members' Use of Council Resources including use of Email and the Internet and Gifts and Hospitality, the Members' Code of Conduct will take

precedence.

- 6.3 The amended Protocols should be kept under review and should additional amendments be recommended they be brought back to Governance and Audit Committee or considered by the Monitoring Officer under Article 14 of the Constitution.

7. OTHER IMPLICATIONS

- 7.1 There are no sustainability implications, greenhouse gas emissions impact or community safety, Human Rights Act, Trade Union, ward or corporate parenting implications in this report.

7.2 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

Not applicable.

8. NOT FOR PUBLICATION DOCUMENTS

None.

9. OPTIONS

- 9.1 To recommend to Council that the three amended Protocols be adopted together with the amendments as set out in paragraph 3.3 of this Report.
- 9.2 To require additional amendments or further consideration prior to recommending to Council for adoption.

10. RECOMMENDATIONS

- 10.1 That the proposed amendments to:

- a) the Protocol on Member-Officer Relations set out in Appendix 1,
- b) the Protocol on Members Gifts and Hospitality set out in Appendix 2 and
- c) the Protocol on Members Use of Council Resources including Use of E-mail and the Internet set out in Appendix 3 and
- d) the constitution as set out in paragraph 3.3 of this Report

be recommended to Council for adoption and implementation.

- 10.2 That the City Solicitor be granted delegated authority to make consequential amendments to the Constitution as a result of any recommendations approved by full Council.
- 10.3 That the City Solicitor ensures that any agreed amendments are implemented.

11. APPENDICES

Appendix 1 Proposed amendments to the Protocol on Member-Officer Relations.

Appendix 2 Proposed amendments to the Protocol on Members Gifts and Hospitality.

Appendix 3 Proposed amendments to the Protocol on Members Use of Council Resources including Use of E-mail and the Internet

Appendix 4 Members' Code of Conduct adopted by Council on 15 March 2022.

12. BACKGROUND DOCUMENTS

Local Government Association's Guidance on the LGA Association Model Councillor Code of Conduct