

Title of meeting: Governance & Audit & Standards Committee
 2 November 2018

Full Council
 13 November 2018

Subject: Revisions to the Statutory appointments section in the Constitution

Report by: Deputy Chief Executive and City Solicitor

Wards affected: N/A

Key decision: No

Full Council decision: Yes

1. Purpose of report

To address the need to make revisions to the statutory appointments section in the constitution

2. Recommendations

It is recommended that Governance & Audit & Standards Committee

- 1. Consider and agree the proposed amendment to the Constitution by the following inclusion relating to part 2 responsibility for functions (Section 5c Proper Officer/Statutory Appointments Section):**

Section	Function	Responsible Officer
86	Declare vacancy in office	CX
87	Give public notice of a casual vacancy	CX

- 2. Recommend to Council that the Constitution be amended to reflect the above revision.**

3. Background

The current statutory appointments includes under the Chief Executive's functions, the authority to deal with both the receipt of declaration of resignation of Office and receipt of notice of casual vacancy from two local government electors in accordance with sections 84 and section 89 of the Local Government Act 1972 respectively. However, the statutory appointments functions are silent on addressing other Councillor vacancy related issues which arise under sections 86 and 87 of the Act as detailed below:

Section 86 of the Local Government Act 1972 requires the local authority to declare forthwith a vacancy in elected office which may occur because the member:

- a) ceases to be qualified to be a member of the authority;
- b) becomes disqualified for being a member of the authority otherwise than under section 79 of the Local Government Act 2000 or section 34 of the Localism Act 2011 or by virtue of, a conviction or a breach of any provision of Part II of the Representation of the People Act 1983, or
- c) ceases to be a member of the authority by reason of failure to attend meetings of the authority

Reasons for ceasing to be qualified or becoming disqualified under sections (a) and (b) above include:

- are a paid officer or employee with the Authority
- are the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order, an interim debt relief restrictions order or a debt relief restrictions order
- have been convicted of any offence and has had passed on them a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;

Further disqualifications under section (b) include offences relating to pecuniary interests (Localism Act 2000) and election offences (Representation of the People Act 1983). Section 79 of the Local Government Act 2000 has been amended and now only applies in Wales. Disqualifications under these circumstances will be declared by the High Court.

In relation to section (c), the Local Government Act 1972 requires a member of a Local Authority to attend at least one meeting of that Authority within a six month consecutive period.

Section 87 requires notice to be given of vacancies occurring by virtue of section 85 or 86 of the 1972 Act.

It is therefore requested that the following statutory appointments are made in relation to the Local Government Act 1972:

Section	Function	Responsible Officer
86	Declare vacancy in office	CX
87	Give public notice of a casual vacancy	CX

As these changes to the Constitution require the agreement of Full Council, this Committee is asked to put that recommendation to the Council.

4. Reasons for recommendations

Should any of the above situations arise in the future, the Council will be able to discharge its obligations without delay as required by the Local Government Act 1972.

5. Equality impact assessment (EIA)

The contents of this report do not have any relevant equalities impact and therefore an equalities impact assessment is not required.

6. Legal Implications

As this amounts to an amendment to the Council's constitution the matter, if approved, will require further approval by Council.

7. Finance Comments

None in the context of this report.

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Signed by:
Appendices:

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location