

Report to COUNCIL

Constitution amendments

Report of the Deputy Chief Executive, Director of Finance and Director of Legal

6th September 2023

Recommendations

To amend the constitution as detailed in the report with the amendments to the Rules specified.

Constitution Amendments**1 Background**

The Constitution requires regular review to ensure it is fit for purpose and reflects best practice. There are a number of areas detailed below for Council to consider.

1.1. Council Procedure Rules

The Council Procedure Rules detail the rules which apply to meetings of the Council and its committees. The Leader of the three main groups have reviewed the rules particularly relating to motions and the question section of the Council meeting. It has been identified that in order to ensure sufficient time is given to motions submitted that time limits will be specified. It is also proposed that the question period be amended so that there is a 90-minute section for reports from the Leader and Cabinet Members with an opportunity for non executive Members to ask questions of the Leader and Cabinet Members in each section where reports are provided. Also, the minutes of the Greater Manchester Combined Authority and Executive will be received by Council. The time specified for public questions will be 15 minutes. It is also proposed that the public questions should be focused on the services which the Council provides or commissions. The remote access to meetings provisions are removed. The proposed revised Council Procedure Rules are attached at Appendix 1 and the amendments to the procedures are at Rule 2.1.3. and Rule 10. If approved by Council, the Rules will be operative for all meetings after this meeting.

1.2. Financial Procedure Rules

Over the past few months, a detailed review of Financial Procedure Rules (FPRs) has been undertaken by officers from the Finance and Internal Audit Teams. This has resulted in a range of proposed changes to improve the FPRs. The revised FPR's were presented to the Audit Committee on 20 July 2023 where Members suggested some further changes, which have been incorporated into this report. Council is required to review and approve FPR's prior to their inclusion within the Council's Constitution

Whilst the current FPRs have served the Council well and remain fully functional, the document at Appendix 2 is an updated version of FPRs which is recommended for approval.

The changes that have been incorporated and are recommended for approval can be summarised as follows;

a) Changes which appear throughout the document:

- A general review to strengthen and tighten wording and to align with other policies and protocols that have been subject to a separate review;
- Revisions to the titles of posts and responsibilities of officers of the Council to reflect the current operational arrangements;
- An updating of the Overview and Scrutiny Committee arrangements to reflect the introduction of Scrutiny Boards; and
- Updating of the Risk Management policy statement and strategy to the Risk Management Strategy and Framework

b) Specific changes:

- A revision to the definition of Senior Officer to include Assistant Directors;
- The inclusion of a requirement for any changes to Financial Procedure Rules to be scrutinised by the Audit Committee to align with the terms of reference of the Committee (paragraph 1.3);
- The requirement for the Scrutiny Boards to work with the Audit Committee on key operating decisions including scrutinising and reviewing key partnerships and grant programmes (paragraphs 1.9 and 1.10);
- Given the increasing range and complexity of grant regimes, the inclusion of a specific requirement of the Director of Finance to ensure that the terms and conditions of grants awarded to the Council by Government and other public bodies and organisations, including the Greater Manchester Combined Authority, are complied with and that all grant claim forms are completed accurately and in a timely manner (paragraph 1.12 (j));
- The specific extension (previously implicit) of the requirements of the Director of Finance to report, under S114 of the Local Government Act 1988, that the expenditure of the Authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure (paragraph 1.14 (d));
- A slight amendment to the wording of paragraph 1.26 to reflect the role of the Audit Committee;
- Confirming established practice that the Reserves Policy will be subject to detailed scrutiny by the Audit Committee (paragraph 2.13);
- Providing the Director of Finance with some additional flexibilities to approve virements to address identified budgetary challenges having regard to the financial position of services and the Council (paragraph 3.6) and updating officer virement values (as these have not been changed for several years and the values are now considered too low);
- Changing the positioning of wording in relation to capital virements (moving 3.16 to 3.12);
- Introducing a specific requirement for managers of key Regeneration Projects to notify the Director of Finance in writing of all new risks or assets to be insured and of any alterations affecting existing insurances (paragraph 7.2);
- Inclusion of reference to a community asset transfer in relation to the disposal of an asset (paragraph 8.3);
- Revising the reporting of Treasury Management arrangements to reflect the new requirement to report on a quarterly basis (paragraph (10.3));
- Further clarification of the responsibilities regarding debt write off (paragraphs 12.17 and 12.18)
- Introducing a requirement, where an advance payment to the supplier or contractor of a supply/ works has already been agreed under a tender/ contract process, that the payment can only be agreed following the submission of an mod.gov report setting out the rationale (paragraph 13.20);
- Revising the requirements of the Director of Finance in relation to partnership working (paragraphs 20.1 and 20.2);
- Specific reference as per paragraph 20.7 and 20.9 that the offering any loan or grant must clearly demonstrate how it would support the delivery of Corporate Objectives;
- Specifying when a loan must be approved by Cabinet – a value at over £0.400m (paragraph 20.8); and
- Revision to the value (paragraph 20.10) of the requirement for any grant award to be approved by Cabinet to align with the requirement for a key decision.

Whilst it may seem that there are a significant number of changes, the FPRs have been subject to a comprehensive review and some of the revisions are comparatively minor but provide improved clarity of purpose. It is important that the Council's FPRs reflect best practice and are updated to reflect recent local and national changes.

The revised proposed Financial Procedure Rules are attached at Appendix 2.

1.3 Access to Information Procedure Rules

The Access to Information Procedure Rules are proposed to be amended to remove the Remote Access to meetings paragraph as the permitting regulations are no longer of effect and the matters considered in reports are clarified at paragraph 7. The relevant extract of the Rules is attached at Appendix 3.

1.4 Contract Procedure Rules

Council will be aware that there is a requirement to review and as necessary, revise the Contract Procedure Rules (CPRs) on a regular basis. In this regard a review has been undertaken by officers of the Procurement, Legal, Finance and Internal Audit Teams to ensure that the CPRs reflect current best practice. The outcome of that review and consequent revised CPR's were presented to and approved by Council on 12 July 2023

After a further, review the Director of Finance is recommending some additional revisions as detailed below. The proposed revisions were presented to and accepted by the Audit Committee on 20 July 2023. The revised proposed CPRs are presented as an extract at Appendix 4

- An amendment to the wording is recommended to better reflect the use of Framework Agreements for entering into contractual arrangements for the procurement of goods and services for the Council. These changes are at paragraph 8.1.1(c),8.1.2 and 8.1.4
- Paragraph 14.1 also to be amended to reflect the fact that Unity remains a live entity and the inclusion in CPRs gives the Council flexibility if an unspecified future use of the Company is required.
- A new paragraph at 21.9 to require that on an annual basis the record of authorised exemptions to CPRs maintained by the Head of the Commercial Procurement Unit, should be reported to the Audit Committee

2 Current Position

The constitution requires to be updated regularly.

3 Options/Alternatives

3.1 The options are to amend the constitution or not amend

4 Preferred Option

4.1 The preferred option is to amend the constitution.

5	Consultation
5.1	Consultation has taken place with the three largest group leaders, Audit Committee and officers.
6	Financial Implications
6.1	None
7	Legal Services Comments
7.1	Included in the report
8.	Co-operative Agenda
8.1	N/a
9	Human Resources Comments
9.1	N/a
10	Risk Assessments
10.1	N/a
11	IT Implications
11.1	N/a
12	Property Implications
12.1	N/a
13	Procurement Implications
13.1	N/a
14	Environmental and Health & Safety Implications
14.1	N/a
15	Community cohesion and crime and disorder implications
15	N/a
16	Equality impact
16.1	N/a
17	Oldham Impact Assessment Completed?
17.1	No
18	Key Decision

18.1 No

19 **Key Decision Reference**

19.1 N/a

20 **Background Papers**

20.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act :

File Ref	Reports to the Audit Committee of 20 July 2023 Revision to Financial Procedure Rules Amendment to Contract Procedure Rules and Proposed Future Revisions
Officer Name	Sayyed Osman/ Paul Entwistle/Anne Ryans
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21 **Appendices**

21.1 Appendix 1 – Council Procedure Rules
Appendix 2 – Financial Procedure Rules – Proposed Changes
Appendix 3 – Access to Information Procedure Rules
Appendix 4 - Further Proposed Revisions to Contract Procedure Rules