

**Report to COUNCIL**

## **Constitution Update**

**Report of:** Director of Legal and Interim Head of Democratic Services

**11<sup>th</sup> September 2024**

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### **Reason for Decision**

The Constitution requires regular update to ensure that it reflects organisational changes, best practice and decisions made by Council, committees of Council or Leader and/or Cabinet which have consequential effect.

### **Recommendations**

Council is recommended to consider and approve the recommended constitution changes detailed at paragraphs 2.1 to 2.7 in the report and reconfirm the Constitution as amended by this meeting.

## **Constitution Update**

### **1. Background**

- 1.1 The constitution requires regular update to ensure it is fit for purpose and reflective of organisational changes and refreshed to consider the arrangements of the Council and the executive.

### **2. Main areas recommended for amendment**

There are amendments recommended and those which are consequential on decisions previously made.

#### **2.1 Member/Officer protocol**

- 2.1.1 The Member /Officer protocol has not been reviewed for a period and requires updating and refreshing. A revised version is attached at Appendix 1.

#### **2.2 Planning meeting protocol**

- 2.2.1 The planning committee meeting protocol has been reviewed and a revised version is attached at Appendix 2.

#### **2.3 Organisational changes**

- 2.3.1 Arising from decisions of the Appointments Committee and Council, a revised officer scheme of delegation is required to be approved. Harry Catherall will undertake the duties of Place Lead for Oldham on the ICB alongside his role as Chief Executive and will increase his number of contracted hours to four days per week. Mike Barker will undertake the role of Deputy Chief Executive ( Health and Care ) taking on additional duties around adult social care and public health and health and social care integration . The designation of Monitoring Officer is recommended to be allocated to the post of Borough Solicitor who will be Alex Bougatef on an interim basis from the 1st October and references in the constitution to the Director of Legal will require to be amended to state Borough Solicitor. From that date, the Proper Officer for Registration Services will be Shelley Kipling, the Assistant Chief Executive. The Assistant Chief Executive will also undertake duties relating to the management of democratic services ,electoral services and civic and member support and land charges From that date also, the responsibilities of the Managing Director of Children and Young People will be undertaken by the Director of Children's Services A copy of the revised officer scheme of delegation is attached at Appendix 3 which will be updated on the 1<sup>st</sup> October as detailed above.

#### **2.4 Employee code of conduct**

- 2.4.1 The employee code of conduct has not been reviewed for some time and officers have considered best practice in other authorities. A revised employee code is attached at Appendix 4.

#### **2.5 Financial Procedure Rules**

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2.5.1 Consequent upon decision at the Annual council meeting that all key decisions are to be made by Cabinet, the Financial Procedure Rules on virement need amending to reflect this position. Virement principles are contained in the Financial Procedure Rules. In light of changes to key decision provisions, it is recommended that the virement rules in the Financial Procedure Rules are clarified so that revenue budget virements over £250,000 are approved by Cabinet. With respect to the capital budget virement rules it is recommended that any virement within the overall capital plan between programme areas and within programme areas up to £250,000 is approved by the Deputy Chief Executive ( Place ) in consultation with the Cabinet Member with responsibility for Finance in ,the Director of Finance, and the relevant Cabinet Member for the service area. Any virement above £250,00 must be approved by Cabinet .An extract of the recommended amendments of the Financial Procedure Rules is attached and consequential constitutional amendments will be made if required. A copy of the relevant extract is contained at Appendix 5. It should also be clarified in the Rules that the Reserves Policy will be subject to consideration of approval by Cabinet .

## **2.6 Contract Procedure Rules**

2.6.1 The Contract Procedure Rules have been reviewed to reflect organisational changes, minor threshold changes in paragraph 4.3 and best practice. A revised version is attached at Appendix 6 to reflect these changes.

## **2.7 Other procedural changes**

2.7.1 Arising from changes at Annual Council meeting where individual executive member decisions may be called -in, a change in process is recommended so that individual executive member decisions and decisions of Cabinet will be circulated to all members and the call-in period will commence from that date. Key Decisions are defined in regulations as “ an executive decision which is likely (a) to result in the local authority incurring expenditure which is, or the making of savings which are , significant having regard to the local authority’s budget for the service or function to which the decision relates or (b) to be significant in terms of its effects on communities living or working in the area comprising two or more wards in the area of the local authority “ and this definition and the interpretation are included at Appendix 7.

2.7.2 Clarification is recommended so that the public questions section at Cabinet meetings includes any questions asked by non -executive members.

2.7.3 Clarification is required that the Employment Committee will also have the function of the local negotiating joint consultative committee and members of the Employment Committee will be council representatives on the local negotiating joint consultative committee.

2.7.4 There are also consequential amendments to the Land and Property Protocol and Petitions Scheme arising from the decision that all key decisions will be made by Cabinet.

## **3. Options/alternatives**

There is a requirement for the Council to have a constitution and ensure it is updated and therefore it is necessary to regularly review the provisions

## **4. Preferred option**

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To review and update the Council's constitution.

## **5. Consultation**

Officers from various services have reviewed different technical aspects of the constitutional documents .

## **6. Financial Implications**

None arising from the Constitutional amendments.

## **7. Legal implications**

These are contained within the body of the report.

## **8. Equality impact including implications for Children and Young People**

N/a

## **9. Key decision**

No

## **10. Background papers**

None

## **11. Appendices**

- Appendix 1 – Member/Officer protocol
- Appendix 2 – Protocol for Planning Committee meetings
- Appendix 3 – Relevant extract from Officer scheme of delegation
- Appendix 4 - Employee Code of Conduct
- Appendix 5 - Relevant extract from Financial Procedure Rules
- Appendix 6 – Contract Procedure Rules
- Appendix 7 – Extract of Key Decision definition