

## **Report to COUNCIL**

### **Constitutional Amendments**

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#### **Reason for the Decision**

To present to the Full Council proposed changes/Amendments to the Constitution.

#### **Recommendations**

1. That the proposed amendments/changes to the Constitution as detailed within the report are approved.
2. To agree that any future changes to the Specific Officer Functions be delegated to the Monitoring Officer and reported to the next available Council.

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## 1. Report details

1.1 Some work has been undertaken with the Constitutional Working Group to create a more accessible and simpler Constitution to ensure accessibility, openness and transparency. The changes proposed are:

### Part 2 – Articles – A review

- Tidying up of the articles generally
- Article 4 – Full Council - Inclusion of the Youth Justice Plan in the Policy Framework
- Article 6 – Overview and Scrutiny - Broader description of the Health Scrutiny Committee
  - Inclusion of Statutory Scrutiny Officer
  - Deletion of the prioritisation framework and this is not required to be contained in the Articles
  - Deletion of Joint Scrutiny arrangements as they will appear in the Joint arrangements section at Part 3.
- Article 7 – Slight amendments to wording of the Cabinet description to clarify in addition to the Leader the Cabinet can be between 2 and 9 Councillors and the clarifying the Council decision on a Leader's term of office.
- Article 8 – Regulatory and other Committees
- Article 9 – Standards Committee
- Article 10 – Removal of Audit Committee – The reference at this section this is historic and should sit under Part 3 Responsibility for functions (Council functions)
- New Article 10 – District Executives – Terms of reference will be inserted at Part 3 of the Constitution as part of Functions.  
A table will list the Wards and number of Members.
- New Article 11 – Town Centre Business Partnership – Terms of reference will be inserted at Part 3 of the Constitution as part of Functions.
- New Article 12 – Joint arrangements – Inclusion of the General Power of Competence
  - Amendment to include the compliance with the the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.
  - Inclusion of Joint Arrangements with other Public Bodies
  - Removal of Governance Arrangements Document (GAD)
- New Article 13 – Officers
- New Article 14 – Decision Making – New Introduction and further information on categories of decisions.

### Key Decision – Definitions

- Amend the definition (vii) to delete per annum and replace with over the term of the agreement.
- vii. Securing approval in principle to the taking of, or the granting, renewal, assignment, transfer, surrender, taking of surrenders, review, variation or termination of any leases, licences, easements or wayleaves, at considerations in excess of £250,000 **over the term of the agreement** or a premium of £250,000.
- New Article 15 - Finance, Contracts and Legal Matters
- New Article 16 – Review and Revision of the Constitution

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- New Article 17 - Suspension, Interpretation and Publication Of The Constitution.
  - New Article 18 – Health including the Health and Wellbeing Board and Health Scrutiny

### Part 3 – Responsibility for Functions

Introduction about the Council's functions Executive/Council split

1. Inclusion of Local Choice Functions
2. (a) Full Council Functions  
(b) Council Committees Terms of Reference and inclusion of Independent Panel. Amendment of the Audit Committee Terms of Reference to address the new lines of accountability for the Data Protection Officer appointed under The General Data Protection Regulations.
3. Overview and Scrutiny

Responsibility for Executive Functions with sub headings:

4. (a) Cabinet Functions
4. (b) Role of the Leader and Cabinet Members
4. (c) Cabinet Member Portfolios
4. (d) Individual Cabinet Member Decisions
4. (e) Delegation to Elected Members - Ward Budgets
5. (a) Officer Scheme of Delegation
5. (b) General Delegations to Officers
5. (c) Delegations to Specific Officers
  - To request that any future changes to the Specific Officer functions be delegated to the Monitoring Officer and reported to the next available Council
  - Joint Arrangements to include appendices at the end of Part 3 with the Terms of reference of the Joint Committee.

### Part 4 – Rules of Procedure

#### Council Procedure Rules

6.4 –Clarification that public questioners are entitled to two minutes to ask a question.

Cosmetic changes to contents page – simplified

#### Contract Procedure Rules

The amendments to the Council's Contract Procedure Rules have been proposed to address some of the issues which have emerged over the past year since the Rules were last amended and the requirements of new legislation, government guidance and codes of practice:

- Inert new rule Rule 1.10.10, to clarify the position about the exclusion of grants from the Rules provided the grant is not a contract for services.
- Rule 2.4 Reference to be made to the Council's additional obligations imposed by the General Data Protection Regulation.
- Rule 2.5 New Rule to address collaborative arrangements with other public organisations to ensure compliance with public procurement legislation and value for money.
- Rule 4.3 Amendment to the Rule and the table to ensure compliance with the Public Contracts Regulations 2015 the Local Government Transparency Requirements England Regulations 2014 and Local Government Transparency Code.
- Rule 5.1 Deleted because all quotations have to be in writing.

- Rule 5.2 All quotations for goods and services with a contract value of over £25K must be advertised and therefore must be advertised on Contracts Finders to comply with the mandatory section of the Local Government Transparency Code.
- Rule 7.4 New reference to the Competitive Dialogue Procedure to derive innovative ideas and value for money for complex projects.
- Rule 11.1.3 Clarified the threshold of £10K for the Head of Commercial Services to open requests for quotations on The Chest.
- Rule 12.2 Amendments to the Rule dealing with clarifications and abnormally low bids to ensure seek legal advice.
- Rule 13.6 Deleted to remove reference to interviews with bidders for clarification purposes because a risk of post bid variations.
- Rule 14 – Change to threshold – less than £10,000 1 quote and recorded Purchase order and £10,000 and £25,000 3 quotes and recorded by Purchase Order.
- Rule 14.1 Remove the column in the table entitled procedure to prevent confusion with the table in Rule 4.3.
- Rule 14.2 Amplification of the Rule dealing with the formalities of Contract Award.
- Rule 14.6 New Rule to incorporate the Council's standard terms and conditions in the award letter unless a separate bespoke
- Rule 14.7 Reminder inserted to publish contract award on Contracts Finder if the contract is advertised on Contract Finder.
- Rule 14.8 Deleted not necessary to register all contracts on Modern Gov because registered on the Council's Contracts Register.
- Rule 14.9 Deleted because reference to publication on Contracts Finder in Rule 14.7 above.
- Rule 16.2 Reinsertion of a previous Rule dealing with retentions to provide additional protection for the Council.
- Rule 17.1 Amendment to the Rule to align with Regulation 72 in the Public Contracts Procedure Regulations.
- Rule 17.2 Deleted because the wording in the Rule was ambiguous causing confusion.
- Rule 17.2 (f) Deleted because the threshold of 50% increase in contract value has been inserted in Rule 17.1 in alignment with Regulation 72.
- Rule 17.3 Renumbered. Deleted Rule 17.2 (f) because no longer required following amendments in Rule 17.1
- Rule 17.4.1 Inserted a reference to the table in Rule 14.1. to clarify the relevant decision maker.
- Rule 20.1 Strengthening the Rule for monitoring contracts.

## Financial Procedure Rules

### Business Units

- Delete para 2.31 – Business Units
- Delete pages 111-127 – Business Unit Financial Procedure Rules and Business Unit Contract Procedure Rules

## Part 5 - Codes and Protocols

- General cosmetic changes and formatting.

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### Officer Code of Conduct

- Amendments are required to sections of Appendix 4, due to the legislative changes brought about by the General Data Protection Regulations (GDPR).

### Appendix Four - Access to Information and Information Technology Guidelines Data Protection

- Amendments have been made at paras 4.1, 4.2 and 7.9 to reflect GDPR changes

### Protocol for Members/Officer working Arrangements

#### Members' Access to Information and To Council Documents

- An amendment has been made to para 10.6 to reflect the GDPR changes

## **2. Options (including recommended option)**

- 2.1 Option 1 – To approve the recommendations to amend/simplify the Constitution.  
Option 2 – Not to approve the recommendations to amend/simplify the Constitution

## **3. Financial implications**

- 3.1 n/a

## **4. Legal implications**

- 4.1 The Council is under a duty to review the Constitution annually.