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Cabinet Member (Community Safety and Equalities)  
Council

6 January 2014  
14 January 2014

**Name of Cabinet Member:**

Cabinet Member (Community Safety and Equalities) Councillor Phil Townshend

**Director Approving Submission of the report:**

Director of Resources

**Ward(s) affected:** All

**Title:** Changes to the Constitution

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**Is this a key decision?**

No

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**Executive Summary:**

This report is to seek the approval of the Council for significant revisions to the Constitution.

The present Constitution is still based on the Government's Model Constitution which was issued at the same time as the Local Government Act 2000 executive arrangements were introduced. Since then, the Constitution has been amended as and when necessary but it has not been comprehensively reviewed.

Given the extensive change agenda within both the Council and local government generally, it is considered the ideal time to carry out that comprehensive review with the following objectives.

- Updating the documents to reflect new practices and procedures, including updating procurement/contractual requirements and financial thresholds.
- Removing the references, wherever possible, to specific legislation to prevent the documents from going out of date as quickly.
- Rationalising and updating the Scheme of Delegation to Officers.
- Removing unnecessary documents from the Constitution.

The main changes to the Constitution are set out in Section 2 of the report but can be summarised as follows:

- The organisation of sections is now clearer and more straightforward.

- Part 2 (Articles) has been deleted and any sections not already replicated elsewhere in the Constitution have been inserted into the relevant Part.
- New Part 2 (Terms of Reference for Cabinet and Committees and Delegations to Officers) with extensive revisions to officer delegations to remove long lists of statutes and give more generic delegations. The Scheme has been amended to reflect the recent changes to directorates and senior management.
- New Part 3 (Procedure Rules). These have been updated where needed and unnecessary rules removed. In particular, the Rules for Contract and Financial Procedure Rules have been extensively revised.
- New Part 4 (Codes and Protocols). Codes and Protocols which do not need to be in the Constitution have been removed.
- New Part 5 (Members Allowance Scheme) which is the latest approved scheme.
- New Part 6 (Management Structure) which has been revised to show the new Strategic Management Board.
- Old Part 8: (Procedural Matters) has been deleted and its provisions included elsewhere, where appropriate.

An electronic version of the component parts of the revised Constitution is available on-line and paper copies will be made available to all members.

### **Recommendations:**

#### **Cabinet Member**

- (1) To consider the changes to the Constitution set out in the draft revised Constitution including:
  - (a) the changes referred to in Section 2.2 of the report ;
  - (b) the changes recommended by the Constitution Advisory Panel and Scrutiny Co-ordination Committee at paragraphs 2.2.1 (b),(e),(f), and (h) and paragraphs 2.2.2 (f), (k) and (n): and
  - (c) the changes proposed in Section 2.3 of the report; and
- (2) To make recommendations accordingly to Council.

#### **Council**

- (1) The changes to the Constitution recommended by the Cabinet Member (Community Safety and Equalities) be approved with immediate effect.

**List of Appendices included:**

**Appendix 1: Table of Feedback from Consultations**

**Appendix 2: Table of Trade Union Comments on Revisions**

**Appendix 3: Table of Proposed Financial Thresholds**

**Appendix 4: Procurement Flowchart**

**Other useful background papers:**

None

**Has it been or will it be considered by Scrutiny?**

Yes, Scrutiny Co-ordination Committee: 7 August 2013

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

Constitutional Advisory Panel: 6 February and 8 July 2013

## **Report title: Changes to the Constitution**

### **1. Introduction and Context**

1.1 The present Constitution is still based on the Government's Model Constitution which was issued at the same time as the Local Government Act 2000 executive arrangements were introduced. Since then, the Constitution has been amended as and when necessary but it has not been comprehensively reviewed. As a result, some of its contents have been overtaken by changes in legislation and in the way in which the Council is structured and operates.

1.2 The Constitution has now been revised in order to:

- Remove any sections which are no longer needed and otherwise streamline the document;
- Make it less prone to going out of date and easier to update; and
- Update legislative references where needed and remove those that are not;

In all documents the changes proposed are shown by way of track changes except Part 2 where the changes have been so extensive in many parts that showing track changes makes the document unreadable. In some cases text appears to have been deleted but has, in fact, simply been moved to another section.

1.3 Members have been consulted on the proposed changes as follows:

- Constitutional Advisory Panel on 6 February and 8 July 2013
- Member Workshops held on 25 March (reconvened on 8 May), 3 April and 10 May 2013
- Scrutiny Co-ordination Committee on 7 August 2013

A table setting out the main recommendations of members at each forum is attached as Appendix 1 to this report.

The Constitutional Advisory Panel has been consulted on the proposed changes twice, in February and July 2013. Since these consultations took place, some further amendments have been proposed as a result of late representations being made. Because of the timing of these representations, it has not been possible to take the proposed changes to the Constitutional Advisory Panel. These are set out in Section 2.3 of the report.

1.4 In addition, trade union representatives were consulted on the proposed changes to the Constitution. Comments from the unions, and responses to them, are set out in the Table at Appendix 2 to the report.

1.5 The original proposals for financial thresholds are set out in Appendix 3 with the Constitutional Advisory Panel and Scrutiny Co-ordination Committee's recommendations set out in Section 2.2.2.(k). Appendix 4 shows a flowchart depicting the procurement process which now takes account of the expanded role of Audit and Procurement Committee.

## **2. PROPOSED CHANGES TO THE CONSTITUTION**

### **2.1. Summary of Proposed Changes**

2.1.1 The main changes to the Constitution are as follows:

- Combining the Summary and Explanation (previously Part 1) and the Articles (previously Part 2) into new Part 1. Where text has come from an Article this is indicated in a comment box to the right of the entry
- Moving the contents of Procedural Matters (Part 8) into more appropriate areas of the Constitution and removing Part 8 from the Constitution.
- Updating procurement procedures and contractual rules and financial thresholds in decision-making (Part 3)
- The terms of reference of all committees, including scrutiny boards, have been moved to one place in Part 2.
- Legislative references have been removed where possible or otherwise updated.
- To reflect changes in practice at the Council and in legislation – for example:
  - references to Ward Forums have been changed to Neighbourhood Forums
  - reference has been made to the Police and Crime Panel that has been established as a joint committee
  - reference is now included to the right to petition on excessive council tax rises
  - new functions have been added to deal with powers relating to coroners and elections

2.1.2 In addition, consultation with members, the Constitutional Advisory Panel and Scrutiny Co-ordination Committee has resulted in agreement on the removal of the following documents from the Constitution:

- Licensing and Regulatory Committee Procedure Rules
- Planning Committee Procedure Rules
- Whistleblowing Policy (annex to the Employees' Code of Conduct)
- Public Speaking at Planning Committee (Annex to the Code of Good Practice on Planning)
- Report writing protocol

All documents removed from the Constitution will be made available elsewhere on the Council's website.

### **2.2 Proposed key changes**

The following key changes are brought to members' attention. Paragraph numbers in the revised Constitution are shown in square brackets. Where the proposed changes have been agreed by the Constitutional Advisory Panel and Scrutiny Co-

ordination Committee, these are included in the description of the changes for approval. Where the Constitutional Advisory Panel and/or Scrutiny Co-ordination Committee have recommended additional changes or amendments, these are shown by the insertion of [CAP] and/or [SCRUCO] in front of the proposed change.

### 2.2.1 Part 2: Terms of Reference and Scheme of Delegation

#### **Constitutional Reference**

#### **Proposed Change**

##### Section 2.1: Introduction

(a) *Key Decisions [2.1.3]:*

The definition of a key decision is amended to include decisions by officers and exclude non-executive decisions to reflect recent regulations and to cover where Cabinet has made delegations to officers. At 2.1.3.2, it is proposed to increase the threshold of a Key Decision from over £500k to over £1 million to account for rise in inflation over 13 years and to align with the proposed procurement regime.

(b) *Consultation Responses [2.1.6]:*

Paragraphs have been inserted from Part 8 dealing with government consultation papers. The proposal is to speed up the process due to larger volume of consultations coming through and the shorter time frame within which to consider them. . In short, the new process will be:

- Full council (if time), if not
- Cabinet (if time), if not
- Leader together with appropriate Cabinet Member and appropriate Director

Therefore Scrutiny will no longer have an automatic role in responding to government consultations but will not prohibit Cabinet requiring input from Scrutiny where time permits.

[CAP] and [SCRUCO]: *subject to the Cabinet Member having the authority, at their discretion, to refer a consultation to the relevant Scrutiny Board.*

Paragraph 2.1.6.2 remains unchanged

(where a consultation is considered 'technical').

- (c) *Local Choice functions [2.1.8]* A new table showing "local choice functions" is included. This is because regulations provide that there is discretion over which body or person can make some decisions

### Section 2.2: Functions of Cabinet

- (d) *Executive functions not delegated to Cabinet Members [2.2.7(u)]* A new provision to make it clear that Cabinet exercises all executive functions not delegated to Cabinet Members or employees
- (e) *Leader exercising power in absence of Cabinet Member [2.2.7 final bullet point]* The power of the leader to exercise executive decision making powers in specified circumstances for e.g. to take executive decisions that have not been allocated or where a Cabinet Member is absent.  
*[CAP]: power to be in consultation with the Deputy Leader.*  
*[SCRUCO]: power to be in consultation with the Deputy Leader and/or the Deputy Cabinet Member where appropriate.*

### Section 2.3: Functions of Council

- (f) *Policy Framework [2.3.2]* Policy Framework is amended to include those plans policies and strategies that are required by law together with the Housing and Homelessness Strategy.  
*[CAP] and [SCRUCO]: limit to the statutory minimum policies (i.e. remove Housing and Homelessness Strategy).*

### Section 2.4: Terms of Reference of Scrutiny Boards

- (g) *Terms of reference [2.4.1.5]* The reference to Scrutiny Boards' terms of reference being closely allied to Cabinet Portfolios is deleted as this is no longer the case; reference is made to the other statutory scrutiny functions; otherwise detailed remits of Scrutiny Boards are removed to allow easier amendment at annual council. A broad outline of Boards to

be appointed is now set out in 2.4.1.1

- (h) *Scrutiny sub groups [2.4.10]* Various provisions relating to Scrutiny Sub Groups have been moved into one section but are otherwise unchanged.

*[CAP] and [SCRUCO]: include explicit provision that scrutiny boards are able to co-opt non-elected members onto sub-groups and remove the requirement for political balance from sub-groups.*

Section 2.6: Terms of Reference of Licensing and Regulatory Committee

Section 2.7: Terms of Reference of Planning Committee

- (i) *Terms of reference* The table setting out the terms of reference for both committees is deleted and replaced with a more compact statement of terms of reference which refer back to the Functions and Responsibility Regulations. These Regulations stipulate what decisions should be made by these regulatory committees

Section 2.8: Functions of Appeals Committee, Appointments Panel, Independent Remuneration Committee and Audit Committee

- (j) *Terms of reference Appeals Panel [2.8.1.]* The terms of reference for the Appeals Panel have been clarified so that the text is easier to follow. Otherwise no other changes.

Sections 2.10.1 to 2.10.4: Scheme of Delegation to Employees Introductory

- (k) *Definitions [2.10.1.1]* Now includes Consultants in Public Health in the definition of Assistant Directors.
- (l) *General extent of delegations [2.10.1.10]* The inclusion of secondary legislation or amendments in an employee's delegation is widened to include any subsequent legislation that is relevant to their service area.
- (m) *Onward delegations [2.10.2.4]* Further delegation of powers should be evidenced in writing.
- (n) *S.151 Officer [2.10.3.10]* The functions of the Section 151 Officer at paragraph have been revised to reflect current CIPFA guidance on these functions.

Section 2.10.5: General Delegations



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| (o) <i>General Delegations</i> [2.10.5.1 to 8]         | An expanded set of general delegations for chief officers and simplified delegations to specified employees provided within approved budget and policy framework. |
| (p) <i>General power to manage</i> [2.10.5.1]          | General powers to manage the day to day operational matters and structure of each service and employment matters.   |
| (q) <i>Contracts and Procurement</i> [2.10.5.17 to 22] | Delegations in respect of contracts and procurement have been consolidated and updated to reflect the proposed new procurement arrangements within the Council.   |
| (r) <i>Finance</i> [2.10.5.13 to 16]                   | Revised powers and duties relating to financial management matters have been drafted.   |

Specific Delegations to Officers

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| (s) <i>General note</i> | <p>Delegations to disestablished posts have been reallocated to the new Executive Director positions as follows:</p> <ul style="list-style-type: none"> <li>• Director of Customer and Workforce Services and Director of Finance and Legal Services: to Executive Director Resources;</li> <li>• Director of Children Learning and Young People and Director of Community Services: to Executive Director People; and</li> <li>• Director of City Services and Development; to Executive Director Place</li> </ul> |
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Section 2.10.6.2: Delegations to Executive Director Resources

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| (t) <i>General delegations</i> [2.10.6.2] | Obsolete legislative references have been removed along with delegated powers that are no longer relevant.  |
| (u) <i>General delegations</i> [2.10.6.2] | The power to award all contracts for the supply of works, goods and services and other procurement functions are deleted as these are now covered by the proposed Contracts and Procurement delegations in the General Delegations and by the proposed revised Rules for Contracts. |

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| (v) <i>Financial, Audit and Procurement functions</i><br>[2.10.6.2.25 to 2.10.6.2.34] | Revised to reflect Executive Director responsibilities as Section 151 officer and CIPFA guidelines. |
| (w) <i>Legal Proceedings</i><br>[2.10.6.2.48]   | Clarity added to delegation for legal proceedings to cover any eventuality.                         |

Section 2.10.6.4: Delegations to Executive Director, People

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| (x) <i>General delegations</i> [2.10.6.4] | The delegations to the Executive Director have been redrafted to set out the broad scope of functions of each division of the Directorate with overall responsibility for each service being delegated to the Deputy Directors and generic Assistant Directors where appropriate. Existing delegations have been pulled together under these headings with additional delegations to deal with gaps in the existing Scheme. |
| (y) <i>General delegations</i> [2.10.6.4] | The long lists of legislative references in the existing Scheme has been removed and replaced by these more general powers to carry out the functions of the Directorate.   |

Section 2.10.6.5: Delegations to City Solicitor

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| (z) <i>Constitution</i> [2.10.6.5.5 & 2.10.6.5. 6] | Provisions with regard to the review of the Constitution which were in Article 14 are now set out here in a shortened format. |
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Section 2.10.6.6: Delegations to Executive Director, Place

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| (aa) <i>General delegations</i> [2.10.6.6] | The delegations to the Executive Director have been redrafted to set out the broad scope of functions of each division of the Directorate with overall responsibility for each service being delegated to the appropriate Assistant Director. Existing delegations have been pulled together under these headings with additional delegations to deal with gaps in the existing Scheme. |
| (bb) <i>General delegations</i> [2.10.6.6] | The extensive lists of legislative powers in the existing Constitution have been removed.   |
| (cc) <i>Property Asset Management</i>      | A general power to appropriate land.  |

[2.10.6.6.25(f)]

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| (dd) <i>Property Asset Management</i><br>[2.10.6.6.26(d)] | Delegated authority to accept revised tender terms. |
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## 2.2.2 Part 3: Procedure Rules

### **Constitutional Reference**

### **Proposed Change**

#### Section 3.1: Council Procedure Rules

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| (a) <i>Honorary Alderman Protocol</i><br>[Annex] | A new paragraph 3.1.3.4 has been added to refer to the Protocol for the Enrolment of Honorary Aldermen which is proposed to be attached as an annex to the Rules. |
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#### Section 3.3: Budget and Policy Framework Procedure Rules

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| (b) <i>Virements</i> [3.3.7] | The section on virements has been removed and transferred into the Finance Procedure Rules. |
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#### Section 3.4: Cabinet Procedure Rules

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| (c) <i>Urgent matters</i> [3.4.8.3]                             | Section has been amended to be consistent with the Access to Information Procedure Rules.   |
| (d) <i>Leader acting in absence of Cabinet Member</i> [3.4.8.5] | The Leader taking a decision in the absence of a Cabinet Member is included to reflect the inclusion of this power in new Part 2. |

#### Section 3.5: Scrutiny Procedure Rules

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| (e) <i>General note</i>              | Terms of reference of scrutiny boards deleted; now in Part 2.  |
| (f) <i>Items on agenda</i> [3.5.4.1] | This has been amended to reflect the legal requirement that members who are not members of a Scrutiny Board have the right to ask for an item to be placed on the committee's agenda, subject to the exclusion of certain prescribed matters.<br><br><i>[CAP] and [SCRUCO]: reasons for not pursuing a matter should be given to the member who asked for the item to be placed on the agenda and minuted.</i> |
| (g) <i>Payments</i> [3.5.7.3]        | The power of boards to pay advisors,   |

assessors or witnesses is subject to payments being within the available budget (paragraph).

- (h) *Limitations on call-in [3.5.18.1]* In the rules on limitations on call-in, the first sentence is removed, as it is redundant, and the exemption for officer-delegated decisions now does not apply to key decisions.
- (i) *Outside bodies annual reports [3.5.24]* The text is included from the deleted Part 8.

### Section 3.6: Finance Procedure Rules

- (j) *General note* These Rules have been extensively revised to reflect current practices and guidance.
- (k) *Financial thresholds [3.6.2].* The financial responsibilities of the Council, Cabinet, Cabinet members and officers are set out including thresholds for the approval of specific transactions. A table setting out these thresholds is attached at Appendix 3. Procurement thresholds are dealt with in (n) below and set out in full in Appendix 4.

#### [CAP] and [SCRUCO]:

- (i) *Revenue Budget Virements: above £0.25m and up to £0.5m to be approved by Cabinet Member; otherwise approved as proposed.*
- (ii) *Grant Income: For income above £0.5m up to £2.5m, to Cabinet, if time permits; if not, to the relevant Cabinet Member (or the Leader in their absence) in consultation with the relevant Scrutiny Chair; otherwise approved as proposed.*
- (iii) *Grant Expenditure: up to £0.05m- the Executive Director Resources consultation with the relevant Cabinet Member ; over £0.05m to £0.25m- Cabinet Member in consultation with Chair of Audit and Procurement Committee; otherwise approved as proposed*

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| (l) <i>Responsibilities [3.6.3]</i>                 | Detailed responsibilities of the Executive Director of Resources are set out. |
| (m) <i>Framework of delegated authority [3.6.4]</i> | Sets out the framework of delegated authority.                                |

Section 3.7: Rules for Contracts

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| (n) <i>General note</i> | These Rules set out in full the requirements for procuring and letting contracts and can be found at Section 3.7. of the Constitution They have been amended by the insertion of new sections to reflect the proposed new procurement procedures. A flowchart showing the procurement process, including the role of Audit and Procurement Committee, is attached at Appendix 4. |
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*[CAP] and [SCRUCO]: The procurement thresholds be as follows:*

*(i) Up to £0.05m(total contract value): approved as proposed;*

*(ii) Above £0.05m up to £1m (total contract value): Procurement Panel in consultation with relevant Cabinet Member and Chair of Audit and Procurement Committee;*

*(iii) Above £1m (total contract value): Procurement Board in consultation with relevant Cabinet Member and Chair of Audit and Procurement Committee; and*

*(iv) Above £1m (per annum): approved as proposed*

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| (o) <i>Procurement Board and Panels [ 3.7.9 &amp;10]</i> | The insertion of a new section to cover the work of the procurement panels and procurement board. |
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Section 3.10: Planning Committee Procedure Rules and  
Section 3.11: Licensing and Regulatory Committee Procedure and Hearing Rules

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| (p) <i>General note</i> | It is proposed to remove these from (but to sit alongside) the Constitution together with power given to the Committees to adopt |
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and revise the procedure rules.

### 2.2.3 Part 4: Codes and Protocols

#### **Constitutional Reference**

#### **Proposed Change**

##### Section 4.2: Code of Conduct for Employees

- (a) *Social media [4.2.12] and identity badges [4.2.17]* New sections are added on the use of social media and regarding the wearing of identity badges.
- (b) *Whistleblowing Policy [Annex]* It is proposed that that the Whistleblowing Policy is referred to but removed from the Constitution (but sit alongside it). The Policy will be located alongside the Constitution on the internet and intranet.

##### Section 4.3: Code of Good Planning Practice for Members and Employees Dealing with Planning Matters

- (c) *Advisory leaflet on planning applications and Public Speaking Guide [Annex]* Leaflet is removed but to be made available alongside the Constitution.

##### Protocol for Member/Employee Relations and Report Writing Protocol

- (d) *General note* Both documents are deleted from the Constitution.

##### Section 4.4 Protocol for Approval for Foreign Travel and Conference Attendance for Councillors and Employees

- (e) *Form for Foreign Travel and Conference Attendance* Form appended to protocol is proposed to be deleted – this is not required to be located within the constitution.

### 2.2.4 Part 5: Members' Allowances Scheme

The Scheme has been updated to reflect the recent increase in members' allowances.

### 2.2.5 Part 6: Management Structure

The structure chart has been updated to include the Director of Public Health and changes in the composition of the Strategic Management Board.

### 2.2.6 Part 7: Procedural Matters (previously Part 8)

This Part is deleted and its provisions incorporated in to the body of the Constitution at appropriate points.

## 2.3 Changes Proposed since Consultations

2.3.1 A number of additional changes to the Constitution have been proposed as a result of late representations since consultations with members concluded. Because of the timing of these representations, it has not been possible to take the proposed changes to the Constitutional Advisory Panel. These are set out below.

### 2.3.2 Changes resulting from Restructure of Directorates

The amalgamation of directorates, appointment of Executive Directors and Deputy Directors and changes in responsibility for functions and services has meant changes have been needed across all Parts of the Constitution, apart from Part 1. Amendments have been made to:

- replace all references to the Directors of Customer and Workforce Services and Finance and Legal Services with "Executive Director of Resources"
- replace all references to the Directors of Children, Learning and Young People and Community Services with "Executive Director of People"
- replace all references to the Director of City Services and Development with "Executive Director of Place".

In addition, the Scheme of Delegation to Employees has required significant revisions to reflect new and changed responsibilities of Deputy Directors, Directors and Assistant Directors. Where these changes are known, they have been included in the Scheme but at the time of writing this report not all directorate structures had been settled. The Monitoring Officer will therefore exercise her delegated powers to make any further amendments that are needed as a consequence of any restructure.

### 2.3.3 Power to Prosecute

In the current Constitution, no prosecutions of certain specified offences may be instituted without the prior approval of Licensing and Regulatory Committee.

It is now proposed that officers will be able to institute proceedings in respect of **all** offences. However, in the case of those offences which previously were required to be approved by Licensing and Regulatory Committee, reports will still need to be made to the Committee for authority to prosecute where the case :

- involves large organisations or other significant persons;
- has the potential to result in significant adverse publicity;
- has the potential to result in a significant financial risk to the Council ;
- has the potential to result in a significant legal risk to the Council; or
- involves a potentially controversial policy.

The amendments to the delegations can be found at 2.10.6.4.7 in Part 2 of the Constitution. In addition, the terms of reference of Licensing and Regulatory

Committee has been amended at 2.6.6.2. These changes have been agreed with the Chair of the Licensing and Regulatory Committee.

#### 2.3.4 Power to Appoint Deputy Cabinet Members

At the Annual Council Meeting in May 2013, the Leader was given the express power to appoint Deputy Cabinet Members. This is set out in 2.2.9.8. Officers now suggest that the power to remove Deputy Cabinet Members should be added for the sake of clarity.

#### 2.3.5 Requirement to have Separate Public Report when Report in Private

In the Access to Information Procedure Rules at 3.2.11, there is a requirement that all private reports must be accompanied by a corresponding public report, unless there are extreme exceptional circumstances. It is proposed that this requirement should be removed since the public report can be unhelpful when exempt information is removed or adds no value where the public and private reports are substantially the same.

#### 2.3.6 Delegations to Executive Director Resources

The Council is required each year to review its Local Council Tax Support Scheme. It is suggested that the Executive Director Resources should be given delegated authority to conduct an annual review of the Scheme. The delegated authority is subject to the proviso that if any changes to the Scheme are recommended as a result of the review, these must be considered and approved by the Council. This proposal has the support of the Cabinet Member (Strategic Finance and Resources). The proposed wording is set out at paragraph 2.10.6.2.34.

#### 2.3.7. Community Right to Challenge

At its meeting on 3<sup>rd</sup> July 2012, full Council approved a number of changes to the Constitution arising from the Localism Act 2011. Among these, delegated authority was given to the Chief Executive or Director responsible for the relevant service to receive and deal with expressions of interest from relevant bodies in providing or assisting in providing a relevant service on behalf of the authority. This was to be exercised in consultation with the appropriate Cabinet Member or Leader.

It is now considered that any expressions of interest should be handled by one directorate in order to achieve consistency in how they are dealt with. It is therefore proposed that responsibility for dealing with expressions of interest should be delegated to the Executive Director Resources with onwards delegation to the Assistant Director Procurement. This would be subject to consultation with the Audit and Procurement Committee. The proposed wording is set out at paragraph 2.10.6.2.31.

In addition it is suggested that the Executive Director Resources should be given delegated powers to put in place procedures for dealing with expressions of interest. This has been added to the draft delegation at paragraph 2.10.6.2.31.



### **3. Results of consultation undertaken**

3.1 The results of consultation undertaken on the proposed revisions are set out in the Tables attached as Appendix 1 and Appendix 2 to this report.

### **4. Timetable for implementing this decision**

4.1 The proposed changes would, if approved, take immediate effect.

### **5. Comments from Executive Director of Resources**

5.1 Financial implications

There is no additional expenditure directly arising from the report.

5.2 Legal implications

Section 9P of the Local Government Act 2000 imposes a statutory duty on the Council to prepare and keep up to date its Constitution. The Council needs to make the changes to its Constitution to ensure that it reflects current statutory requirements and operational practice and encourages transparency in decision-making.

### **6. Other implications**

**6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?**

The Constitution sets out the governance arrangements of the Council and it is important for the good governance of the Council that these reflect changes in legislation and are fit for purpose.

**6.2 How is risk being managed?**

Having a Constitution that reflects changes in legislation and in the Council's structures and operating practices will ensure that the Council meets its legal obligations and will also provide better and more accurate information for the public, stakeholders, councillors and employees on how the Council is governed

**6.3 What is the impact on the organisation?**

Revising the Constitution will put in place appropriate governance arrangements that reflect current statutory requirements and operational practice.

**6.4 Equalities / EIA**

There are no equality issues arising from the proposed amendments.

**6.5 Implications for (or impact on) the environment**

None

## 6.6 Implications for partner organisations?

None

### Report author:

### Name and job title:

Christine Forde, Assistant Director Legal Services and Monitoring Officer

### Directorate:

Resources

### Tel and email contact:

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Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
<b>Contributors:</b>				
Legal: Christine Forde	City Solicitor and Assistant Director (Legal and Democratic Services)	Resources	13.12.13	20.12.13
Legal: Carol Bradford	Locum Legal Officer	Resources	13.12.13	13.12.13
Legal: Clarissa Evans	Commercial Team Manager	Resources	4.11.13	5.11.13
Procurement: Liz Welton	Assistant Director Procurement	Resources	13.12.13	20.12.13
Procurement: Mick Burn	Head of Procurement and Commissioning	Resources	13.12.13	20.12.13
Finance: Michael Rennie	Lead Accountant (Business Partnership, Corporate Finance)	Resources	13.12.13	20.12.13
<b>Names of approvers for submission:</b> (officers and Members)				
Christine Forde	City Solicitor and Assistant Director (Legal and Democratic Services)	Resources	13.12.13	20.12.13
Barry Hastie	Assistant Director Finance	Resources	13.12.13	20.12.13
Councillor P Townshend	Cabinet Member (Community Safety and Equalities)	-	13.12.13	20.12.13

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## Table of Feedback from Consultations

	CONSTITUTION REFERENCE	MEMBERS WORKSHOPS	CONSTITUTIONAL ADVISORY PANEL	SCRUTINY CO-ORDINATION COMMITTEE
	<b>Part 2: Delegations</b>			
<b>2.1.3.2</b>	<p><b>Definition of Key Decision</b></p> <p>Proposal is to increase the financial threshold for Key decisions from £500,000 to £1 million.</p>	<p>One group thought that the proposed increase was reasonable. Otherwise no specific comments on the threshold.</p>	<p>The Key Decision threshold should be increased to £1million.</p>	<p>The Key Decision threshold should be increased to £1million</p>
<b>2.1.6.1</b>	<p><b>Government Consultations</b></p> <p>Revised procedure for approval of responses to government consultations to go to Council (if time); if not, Cabinet or relevant Committee. If no time to do that then Leader and appropriate Cabinet Member and Director.</p>	<p>All groups were concerned at the proposal to reduce or remove Scrutiny input into responses to government consultations. Suggested changes were:</p> <ul style="list-style-type: none"> <li>• Where there is insufficient time to consult with Scrutiny, the relevant Board should be informed, in any event, of each consultation and a report made to that Board on the Council's response to the consultation</li> </ul>	<p>Proposal approved subject to the Cabinet Member having the authority, at their discretion, to refer a consultation to the relevant Scrutiny Board.</p>	<p>Proposal approved subject to the Cabinet Member having the authority, at their discretion, to refer a consultation to the relevant Scrutiny Board.</p>

	Consider removing separate provision for "technical consultations".	<ul style="list-style-type: none"> <li>• Consultation papers could be sent to both the relevant Scrutiny Chair and the Cabinet Member. The Cabinet Member should decide, in consultation with the Scrutiny Chair, whether the matter is one that should go to Scrutiny, time permitting.</li> </ul>	No change recommended to existing procedure on "technical" consultations.	No change recommended to existing procedure on "technical" consultations.
<b>2.2.7</b>	<b>Leader exercising Functions of Absent Cabinet Member</b>  Proposal is that Leader should have power to exercise Cabinet Members functions when member is absent.	Power should be exercised in consultation with the Deputy Leader or appropriate Cabinet Member where possible.	The power of the Leader to exercise functions of Cabinet Members should be in consultation with the Deputy Leader.	The power of the Leader to exercise functions of Cabinet Members should be in consultation with the Deputy Leader <i>and/or the Deputy Cabinet Member where appropriate.</i>
<b>2.3.2</b>	<b>Policy Framework</b>  Proposal is that the policies in the Framework should be reduced to the minimum required by law.	One group felt that the Policy Framework should be reduced to the statutory minimum; another that the slightly expanded framework as drafted was appropriate; the third expressed no view.	The Policy Framework should be limited to the statutory minimum policies.	The Policy Framework should be limited to the statutory minimum policies.
<b>2.4.12.1</b>	<b>Scrutiny Sub-Groups</b>	The text should be explicit that	The text should be explicit that	The text should be explicit that

		Scrutiny Boards are able to co-opt non elected members onto a sub group.  The requirement for political balance on sub groups should be removed.	Scrutiny Boards are able to co-opt non elected members onto a sub group.  The requirement for political balance on sub-groups should be removed.	Scrutiny Boards are able to co-opt non elected members onto a sub group.  The requirement for political balance on sub-groups should be removed.
<b>2.6 and 2.7</b>	<b>Licensing and Planning Committees' Terms of Reference</b>  Proposes that the terms of reference of both committees should be deleted and replaced with a more compact statement which refers back to the regulations which prescribe their functions.  Chairs of both Committees are in agreement with the proposal.	Agreed.	Agreed.	The terms of reference of Licensing and Regulatory Committee and Planning Committee should be streamlined subject to the support of the Chair of Planning Committee and the Chair of Licensing and Regulatory Committee.  (Chairs of both Committees are in agreement with the proposal)
<b>2.10</b>	<b>Scheme of Delegation to Employees</b>  Scheme extensively revised and updated to reflect current responsibilities and functions. Legislative references removed where possible.	One group felt that Cabinet Members and relevant Scrutiny Boards should be given an opportunity to consider proposed officer delegations and give their views to the CAP.	Scrutiny Co-ordination Committee should be consulted on the proposed scheme of delegation for officers.	Scheme of Delegation to Officers approved.
	<b>Part 3: Procedure Rules</b>			

<p><b>3.1.3.4</b></p>	<p><b>Honorary Alderman Protocol</b></p> <p>Proposal is to either include as annex to Council Procedure Rules or remove from Constitution</p>	<p>No strong views on either option.</p>	<p>The Honorary Alderman protocol should remain as an annex to the Council Procedure Rules.</p>	<p>The Honorary Alderman protocol should remain as an annex to the Council Procedure Rules.</p>
<p><b>3.5.4.1</b></p>	<p><b>Items on Scrutiny Agenda</b></p> <p>Proposal is to amend the rule to reflect legislation which gives members who are not members of an overview and scrutiny committee the right to ask for an item to be placed on the committee's agenda.</p>	<p>Reasons for not pursuing a matter should be given to the member who asked for the item to be placed on the agenda.</p>	<p>Reasons for not pursuing a matter should be given to the member who asked for the item to be placed on the scrutiny board's agenda and minuted.</p>	<p>Reasons for not pursuing a matter should be given to the member who asked for the item to be placed on the scrutiny board's agenda and minuted.</p>
<p><b>3.6</b></p>	<p><b>Financial Procedure Rules</b></p> <p>Rules have been extensively revised with new table setting out financial thresholds for decision-making.</p>	<p><i>1. General Observations on Virements</i></p> <p>(a) Aligning thresholds for capital and revenue expenditure did not recognise that the same financial limits were a much greater proportion of the capital budget than of the revenue budget.</p> <p>(b) The bandwidths for lower thresholds should be shortened; and consideration given to the</p>		

		<p>widening of bandwidths for higher values.</p> <p><i>2. Capital Programme Virements</i>  (a) Some members felt that having the Cabinet Member involved in approvals would allow more time for in depth scrutiny of capital schemes at Cabinet; others felt that there was a danger that decisions would be over-scrutinised.  (b) The new proposals could allow virements between cabinet portfolios without agreement from Cabinet: this would change the focus of the approved budget. The proposed arrangement was opaque and the reasoning behind it was not clear.</p> <p><i>3. Revenue Budget Virements</i>  (a) The proposal to move approval of revenue budget virements from the Cabinet Member (s) to Corporate Management Board would mean that significant levels of budget could be moved without member involvement. The relevant Cabinet Member should be consulted as the sums involved could represent an entire service.</p>	<p><i>Capital Programme Virements:</i>  Approved as proposed;</p> <p><i>Revenue Budget Virements:</i>  Virements above £0.25m and up to £0.5m to be approved by Cabinet Member; otherwise approved as proposed;</p>	<p><i>Capital Programme Virements:</i>  Approved as proposed</p> <p><i>Revenue Budget Virements:</i>  Virements above £0.25m and up to £0.5m to be approved by Cabinet Member; otherwise approved as proposed.</p>
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		<p>(b)The original limits (with virements between £250,000 and £500,000 being approved by the Cabinet Member) should be reinstated.</p> <p>(c)Comments on revenue budget virements were as 2(b) above</p> <p><i>4. Grant Income and Expenditure</i></p> <p>(a)With regard to grant income, in order to determine who is to make the decision, the table needs to be more specific about what "if time allows" means. Members needed to be reassured that matters will be agreed after proper consideration at an appropriate level.</p> <p>(b)One group was happy with the proposals</p> <p><i>5. Debt Write-off</i></p> <p>(a) There were concerns about the level of debt that could</p>	<p><i>Grant Income:</i></p> <p>For income above £0.5m up to £2.5m, to Cabinet, if time permits; if not, to the relevant Cabinet Member (or the Leader in their absence) in consultation with the relevant Scrutiny Chair); otherwise approved as proposed;</p> <p><i>Grant Expenditure:</i></p> <p>up to £0.05m- the Director of Finance and Legal Services in consultation with the relevant Cabinet Member ; over £0.05m to £0.25m- Cabinet Member in consultation with Chair of Audit and Procurement Committee; otherwise approved as proposed;</p> <p><i>Debt Write Off:</i> Approved as proposed.</p>	<p><i>Grant Income:</i></p> <p>For income above £0.5m up to £2.5m, to Cabinet, if time permits; if not, to the relevant Cabinet Member (or the Leader in their absence) in consultation with the relevant Scrutiny Chair); otherwise approved as proposed</p> <p><i>Grant Expenditure:</i></p> <p>up to £0.05m- the Director of Finance and Legal Services in consultation with the relevant Cabinet Member ; over £0.05m to £0.25m- Cabinet Member in consultation with Chair of Audit and Procurement Committee; otherwise approved as proposed;</p> <p><i>Debt Write Off:</i> Approved as proposed.</p>
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		<p>be written off by officers. Relatively small amounts of debt might have political implications. Debts should normally only be written off if it was uneconomic to collect them.</p> <p>(b) There should be a small committee with an advisory role in scrutinising proposed write-offs.</p> <p>(c) One group was happy with the proposals</p>		
3.7	<p><b>Rules for Contract (Procurement)</b></p> <p>The Rules have been revised to reflect the new procurement process whereby procurement decisions are made through Procurement Panels and the Procurement Board.</p>	<p>(a) Consideration should be given to the way the financial limits had been set as this could lead to anomalies in which schemes were approved by Cabinet. For example, a 12 month scheme with a total value of just over £1m would be approved by Cabinet but a scheme that was worth much more in total (because of the length of the contract) would not go to Cabinet if the annual value was just under £1m.</p> <p>(b) There should be a mechanism to ensure that if the Council received an in-year windfall (for example,</p>	<p>The procurement thresholds be as follows:</p> <p>(a) Up to £0.05m: approved as proposed;</p> <p>(b) Above £0.05m up to £1m: Procurement Panel in consultation with relevant Cabinet Member and Chair of Audit and Procurement Committee;</p> <p>(c) Above £1m (total contract value): Procurement Board in consultation with relevant Cabinet Member and Chair of Audit and Procurement Committee; and</p> <p>(d) Above £1m (per annum): approved as proposed</p>	<p>The procurement thresholds be as follows:</p> <p>(a) Up to £0.05m: approved as proposed;</p> <p>(b) Above £0.05m up to £1m: Procurement Panel in consultation with relevant Cabinet Member and Chair of Audit and Procurement Committee;</p> <p>(c) Above £1m (total contract value): Procurement Board in consultation with relevant Cabinet Member and Chair of Audit and Procurement Committee; and</p> <p>(d) Above £1m (per annum): approved as proposed</p>

		<p>new grant monies), members should be able to decide where the money would be spent.</p> <p>(c) Councillors were concerned at the lack of member involvement, including lack of Scrutiny input, in the procurement process. Consideration should be given to having a committee/sub-committee of councillors to take an oversight of procurement matters before decisions were made.</p> <p>(d) It was felt that some member oversight on procurement decisions at both Procurement Board and Panel level would be helpful. Since the workshops took place, the terms of reference of Audit Committee have been extended to include procurement.</p>		
<p><b>3.10 and 3.11</b></p>	<p><b>Licensing and Planning Committees' Procedure Rules</b></p> <p>Proposal is that the procedure rules for both committees should be removed from and sit outside of the Constitution</p>	<p>Agreed.</p>	<p>Agreed.</p>	<p>Agreed.</p>

	<p>and that the committee be given a power to adopt and revise the rules as appropriate to enable the regulatory committees to have autonomy over their requisite procedural and operational rules.</p> <p>Chairs of both Committees in agreement with proposal.</p>			
	<b>Part Four: Codes and Protocols</b>			
<b>4.2</b>	<p><b>Code of Conduct for Employees</b></p> <p>Proposal is to remove the Whistleblowing Policy from the Code of Conduct for Employees provided that it was made available to both the public and employees elsewhere on the Council's website</p>	<p>One group felt that the Whistleblowing Policy should remain as an annex to the Code of Conduct because it should have high visibility. Otherwise no views expressed.</p>	<p>The Whistleblowing Policy should be removed from the Constitution but made available elsewhere on the Council's website</p>	<p>The Whistleblowing Policy should be removed from the Constitution but made available elsewhere on the Council's website</p>
<b>4.4</b>	<p><b>Code of Good Practice on Planning</b></p> <p>The Annex to the Code is a leaflet aimed at the public and explaining their rights to speak at Planning Committee. It was suggested that this be</p>	<p>Agreed by one group.</p>	<p>The Annex to the Code of Good Practice on Planning should be removed from the Constitution but made available elsewhere on the Council's website,</p>	<p>The Annex to the Code of Good Practice on Planning should be removed from the Constitution but made available elsewhere on the Council's website, subject to the</p>

	removed from the Code and made available elsewhere on the Council's website as it had no direct link to the Code		subject to the support of the Chair of Planning Committee.	support of the Chair of Planning Committee.
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## Appendix 2

**Table of Trade Union Comments on Proposed Revisions to the Constitution**

<b>Para No</b>	<b>Provision</b>	<b>Trade Union Comments</b>	<b>Response</b>
2.2.10.3	<i>Reference to Director of Customer and Workforce Services</i>	There is no Director of Customer and Workforce Services which would need amending	Throughout the Constitution, references to Director job titles have been amended to reflect the composition of the new Strategic Management Board.
2.3.18	<i>Functions of Council</i> Determining whether to delegate functions to another local authority or accept functions from another authority	This potentially undermines one of the Council's principles to develop the City. We should at least be looking to work towards the development of our services, and not to allow other authorities to take them on.	This is a statutory function of full Council which has been in the Constitution since 2000. The fact that the Council has the power to delegate functions to another authority does not mean that it will do so.
2.8.3.2	<i>Independent Remuneration Panel</i> The Independent Remuneration Panel will comprise independent members to be determined by the Director of Customer and Workforce Services in consultation with the political group leaders...	Amend to remove CWS. It is unclear what group of people such independent members would be.	References to DCWS have been removed. This provision is kept broad to allow the Council to pick a balanced panel from third parties willing to undertake the work.
2.8.4	<i>Audit and Procurement Committee</i> The Committee shall comprise elected members who must not be Cabinet Members to be appointed by full Council.	How can elected members sitting on this panel reasonably be expected to deal with audit and procurement if the same members that procure are those that audit. Is there not a conflict of interest?	Cabinet Members, who are ultimately responsible for procurement, may not sit on the committee which helps to preserve independence of the committee. If a member had an interest in an item, they would be expected to declare it and withdraw from participating in that item.

**MAJOR CHANGES SHADED****Financial Approval Thresholds: Current v Proposed**

<b>Setting a Balanced Budget</b>		
	<b>Current</b>	<b>Proposed</b>
Any Value	Council	Council
<b>New Capital Schemes without Funding Identified</b>		
	<b>Current</b>	<b>Proposed</b>
Any Value	Council	Council
<b>Capital Programme Virements* and New Schemes with Funding Identified</b>		
	<b>Current</b>	<b>Proposed</b>
Up to £0.25m	Capital Working Group, reporting to Management Board	Joint relevant Service Directors and Director of FLS
Above £0.25m up to £0.5m	Management Board	Corporate Management Board
Above £0.5m up to £1.0m	Cabinet	Cabinet Portfolio Holder(s)
Above £1.0m up to £1.5m	Cabinet	Cabinet
Above £1.5m up to £2.5m	Cabinet	Council
Above £2.5m	Council	Council
<b>Revenue Budget Virements*</b>		
	<b>Current</b>	<b>Proposed</b>
Up to £0.25m	Relevant Service Director and Director of FLS (re: employee budgets)	Joint relevant Service Directors and Director of FLS
Above £0.25m up to £0.5m	Cabinet Member(s)	Corporate Management Board
Above £0.5m up to £1.0m	Cabinet	Cabinet Portfolio Holder(s)
Above £1.0m up to £1.5m	Council	Cabinet
Above £1.5m	Council	Council

<b>Technical Adjustments**</b>		
	<b>Current</b>	<b>Proposed</b>
Any Value	Officers	Director of FLS
<b>Grant Income (prior to signing grant agreement)</b>		
	<b>Current</b>	<b>Proposed</b>
Up to £0.5m	Not included	Joint relevant Service Directors and Director of FLS
Above £0.5m up to £2.5m	Not included	Cabinet Portfolio Holder (if no time to go to Cabinet)
Above £0.5m up to £2.5m	Not included	Cabinet (if time allows)
Above £2.5m	Not included	Council
<b>Grant Expenditure (Approval to grant awards to an external body)</b>		
	<b>Current</b>	<b>Proposed</b>
Up to £0.05m	Not included	Joint relevant Service Directors and Director of FLS
Above £0.05m up to £0.25m	Not included	Cabinet Portfolio Holder(s)
Above £0.25m up to £1.5m	Not included	Cabinet
Above £1.5m	Not included	Council
<b>Debt Write Off</b>		
	<b>Current</b>	<b>Proposed</b>
Up to £0.005m	Service Manager	Director of FLS or nominee
Above £0.005m up to £0.015m	Assistant Director	Director of FLS or nominee
Above £0.015m up to £0.1m	Director of FLS	Director of FLS or nominee
Above £0.1m	Cabinet Member	Cabinet Member

<b>Procurement (Approval to Procure)</b>		
	<b>Current</b>	<b>Proposed</b>
Up to £0.05m	Not included	Director
Above £0.05m up to £1m	Not included	Procurement Panel
Above £1m (total contract value)	Not included	Procurement Board
Above £1m (per annum)	Not included	Cabinet

Notes:

**\*Virement** is the planned transfer of a budget for use for a different purpose to that originally intended

**\*\* Technical adjustments** have no overall impact on the City Council's "bottom line", and meet the following requirements:

- are internal transfers between different areas of the City Council;
- involve no new cash transactions with third parties; and
- do not increase or decrease the budget over which a budget holder has spending discretion



# PROCUREMENT GOVERNANCE

