

DECISION-MAKER:	FULL COUNCIL		
SUBJECT:	ANNUAL REVIEW OF THE CONSTITUTION		
DATE OF DECISION:	21 ST JULY 2021		
REPORT OF:	SERVICE DIRECTOR: LEGAL & BUSINESS OPERATIONS AND MONITORING OFFICER		
<u>CONTACT DETAILS</u>			
Executive Director	Title	Executive Director: Business Services & Deputy Chief Executive	
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STATEMENT OF CONFIDENTIALITY			
N/A			
BRIEF SUMMARY			
<p>This report sets out the annual review of the Constitution which was deferred from the Annual General Meeting in light of the change of Administration. Due to the deferral and need to consider the changes as soon as possible the matter has not been discussed by Governance Committee as would ordinarily been the case. Relevant Cabinet Members and the Chair of Governance Committee have, however, been consulted</p>			
<p>As ever, the Constitution is a document that changes regularly and, therefore, further revisions may be proposed prior to or at Council.</p>			
RECOMMENDATIONS:			
	(i)	Save for the Financial Procedure Rules referred to below to agree the minor changes to the Constitution and associated arrangements as set out in this report;	
	(ii)	To authorise the Director of Legal & Business Operations to finalise the arrangements as approved by Full Council and make any further consequential or minor changes arising from the decision;	
	(iii)	To approve the City Council's Constitution, as amended, including the Officer Scheme of Delegation, for the Municipal Year 2021-22.	
	(iv)	With regard to the Financial Procedure Rules:	
		a. To agree the revisions to the Financial Procedure Rules as set out in this report	
		b. To agree the update to the Constitution covering the Budget Policy Framework as set out in this report.	
		c. To delegate authority for the Executive Director – Finance and Commercialism, after consultation with the Cabinet Member for	

		Finance and Capital Assets, to amend the terms of reference of the Change Authority Board and the Capital Review Group.
REASONS FOR REPORT RECOMMENDATIONS		
1.		It is appropriate as a core tenet of good governance for the Council to keep its Constitution under regular review and to amend it, both to reflect experience and changing circumstances.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED		
2.		The Council has previously resolved to review its Constitution annually. Therefore, it is appropriate that this report is considered by Members. There are a range of recommendations set out within the report, none of which are substantial changes. Members have a range of options about various changes not least of which is to amend or reject some or all of them.
DETAIL (Including consultation carried out)		
<u>Officer Scheme of Delegation (Enclosure 23)</u>		
3.		This has been updated to reflect revised job titles and other minor matters, remove duplication and to include delegations required to give effect to the new and revised legislation.
4.		There is a new delegation to the Head of Planning & Economic Development. The Council maintains a list of locally important historic buildings known as the Local List. This is separate from the national list of listed buildings held by the Secretary of State for Culture Media & Sport. Anyone can put a building forward for listing and the Council needs a clear, transparent and democratic way of considering such requests. It is recommended that the delegation is given to the Head of Planning & Economic Development, but with input from the relevant Cabinet Member, to ensure that all requests are processed fairly and in a timely manner. Further guidance on the current list can be found here: https://www.southampton.gov.uk/planning/heritage/buildings-monuments-parks/the-local-list.aspx .
<u>Contract Procedure Rules (CPRs) (Enclosure 10)</u>		
5.		It is proposed to revise elements of the CPRs as below. To increase the Low Value Transaction (LVT) threshold from £5k to £10k. A recent review has demonstrated that approximately 21% of Supplier Management Service Procurement Team resource is spent on projects and requisitions with a total financial value of between £5,000 and £10,000. Increasing the LVT threshold will free up skilled procurement resource to focus on value added work and projects. In order to ensure that the focus on maximising social value and local spend is maintained, additional training and guidance to be provided to officer and they will be encouraged to obtain a local quote below £10k. The Procurement Team will also be available to assist officers who require assistance.
6.		Executive Directors will be responsible for ensuring that details of contracts with values between £5,000 and £10,000 are provided to the Procurement

	Team to enable them to complete and maintain the Contract Register in order to comply with the Transparency Code publishing responsibilities.
7.	New Rule 9.11 is included to reflect the Government's Procurement Policy Note (PPN)11/20 – "Reserving below threshold procurements". PPN11/20 covers options for authorities to consider restricting below Public Contract Regulations 2015 Threshold procurement opportunities by either supplier location or to SMEs and VCSEs or both, where it is deemed appropriate and in according with legislation and when considering value for money, the sector/market and risks. This will support the Southampton Wealth Building initiative.
8.	Amendment of job title of the Head of Procurement and Supplier Management to Head of Supplier Management in order to accurately reflect the scope of role.
9.	To clarify that any reference to Head of Supplier Management and Director – Quality & Integration also includes their delegates.
Financial Procedure Rules (FPRs) (Enclosure 9)	
10.	The Financial Procedure Rules (FPR) provide the governance framework for managing the authority's financial affairs. It does this by setting out the duties, responsibilities and expectations of the Chief Financial Officer and other Executive Directors as well as mapping out procedures to be followed and at what level authority can be given for certain financial transactions (Council, Cabinet, Executive Director level etc).
11.	As noted in the Annual Review of the Constitution considered by Council in May 2020, the intention at that time was to bring an updated version of the Council's Financial Procedure Rules for Council's consideration but in the light of the revised priorities of the pandemic that had to be delayed. This report is therefore submitted to fulfil that intention and refresh the FPR, which have not been thoroughly reviewed for a considerable time. Governance changes to the capital programme are proposed, as well as a more routine update of post titles and legislation references to ensure the FPRs are fit for purpose.
12.	The revised FPRs are attached, showing the tracked changes for clarity of the proposed change.
13.	In a number of cases the current FPRs are out of date with regard to the references to post titles and legislation and these have been brought up to date.
14.	A more fundamental change has been that the Council has abolished the Capital Board, which used to have a remit to oversee the Council's capital programme (both General Fund and the Housing Revenue Account).
15.	The updated FPRs, therefore, update on how the governance of the capital programme will operate with a Change Authority Board and Capital Review Group replacing the work of the Capital Board. The terms of reference of the Change Authority Board is given in Appendix 2 and the terms of reference for the Capital Review Group is in Appendix 1.
16.	In essence the Change Authority Board will act as a gateway for considering major new capital investment and take an overview of monitoring the programme, whilst the Capital Review Group will consider the schemes in

	more detail, their business cases and value for money provided and once included in the Capital Programme any implementation challenges and lessons learnt once finished. Investment proposals accepted by the Capital Review Group will only go ahead as either agreed at the annual budget meeting by Council or if proposed in-year in accordance with the financial thresholds governance as set out in paragraph 19 below.
17.	In the attached revised FPRs, Appendix 3 (in text) and Appendix 4 (via a diagram) of the revised FPRs sets out the new approval process for capital projects. Appendix 5 (via a diagram) shows the timeline for items to be included in the capital programme in the run up to the annual budget meeting of the Council in February.
18.	Provision exists for capital projects to be added outside of the annual process, with the financial thresholds as set out below being applied to any changes.
19.	Approval to add new schemes or to increase existing capital schemes or Approval to spend against a new or existing scheme or Capital virement, to be agreed as follows:
	i. Up to £0.5M – Approved by Chief Officer in consultation with CFO and Cabinet Member (as now)
	ii. Between £0.5M and £5.0M – approval by Cabinet (under previous FPR a range of £0.5M to £2.0M applied).
	iii. Over £5M – approval by Council (under previous FPR over £2M applied).
	iv. For Capital slippage and re-phasing (i.e. moving budget between years), to be agreed as follows:
	v. Approved by Chief Officer in consultation with the CFO and Cabinet Member (up to £0.5M) and approval by Cabinet for above £0.5M (previously Council agreed items over £2M).
20.	The threshold for approval needed for new or existing capital schemes, or to move resources via virement has been increased in (ii) above from £2M to £5M to reflect that the FPRs have not been updated for a considerable period of time. It also means Council will continue to have the final say on major schemes (at £5M and over) whilst having flexible arrangements for lower value schemes.
21.	It should be noted that 88% of the total capital programme is in schemes totalling over £5m.
22.	A further important addition to the FPRs is under rule D50, that “ <i>Payments, orders and variations over £2 million must be approved by the Executive Director in consultation with the CFO and Cabinet Member for the service</i> ”. This is a new rule. Previously, in the absence of any rule such transactions over £2M (typically such as re-procurement of major contracts) have been reported to Council. In financial terms, the control already exists via the agreed budget provision, with budgets being agreed annually at Council.
23.	It is therefore considered that use of the budget via ‘payments, orders and variations’ should be part of the routine duties of Executive Directors and other officers but with a control so that any transaction at £2M or above requires approval by the Executive Director after consultation with the CFO and service Cabinet Member.

24.	The pandemic has illustrated that in extreme situations, there can be an imperative to act quickly. A new paragraph has been inserted (at 1.6 of the FPRs) to cater for urgent situations, which may either fall outside the FPR rules or whilst within the rules there may be a good reason to vary to act quickly, hence the following has been stated by way of exceptional circumstance:
	<p><i>“If it is felt to be in the wider interests of the Council, if an urgent decision is required that either:</i></p> <ul style="list-style-type: none"> • <i>Falls outside of the defined process or limits within Financial Regulations or Financial Procedure Rules, or</i> • <i>Is within the limits of the Financial Regulations or Financial Procedure Rules but due to reasons of urgency the rules cannot be applied as set out</i>
	<i>the urgent decision can be made by the CFO, after consultation with the Cabinet Member for Finance and Capital Assets, the Leader, relevant portfolio holder and Executive Director for the service impacted by the decision. This is subject to it being reported at the next appropriate decision making meeting.”</i>
25.	Views have been invited from senior service managers across the authority as part of the process for updating the FPRs. In addition the Cabinet Member for Finance and Capital Assets has been consulted on the changes
26.	Note that quarterly in-year financial monitoring reporting to Cabinet for both revenue and capital will (as now) continue to be adhered to.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
27.	None.
<u>Property/Other</u>	
28.	None.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
29.	The Executive Arrangements and Constitution are required under the Local Government Act 2000 (as amended) and the Localism Act 2011.
<u>Other Legal Implications:</u>	
30.	None.
RISK MANAGEMENT IMPLICATIONS	
31.	None.
POLICY FRAMEWORK IMPLICATIONS	
32.	None.
KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	None
<u>SUPPORTING DOCUMENTATION</u>	

Appendices	
1.	Draft revised Constitution – online only
Documents In Members' Rooms	
1.	None
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	No
Data Protection Impact Assessment	
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	No
Other Background Documents	
Other Background documents available for inspection at:	
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None