

For publication

Constitution Updates

MEETING: Council

DATE: 12 October 2016

REPORT BY: Monitoring Officer

For publication

1.0 Purpose of report

1.1 To seek member approval for updates to the Constitution.

2.0 Recommendations

2.1 That the Constitution be amended to take account of the recommended changes in this report.

2.2 That the delegations reflecting the new Corporate Management Team structure be confirmed.

2.3 That the Constitution as amended be published.

3.0 **Background**

- 3.1 The Constitution is a key document, required by law, which sets out the principal powers, duties and procedures of the Council. It also sets out to whom decision making over the Council's various functions are delegated.
- 3.2 The current form of Constitution has been in place since the early 2000s and follows a government model proposed at the time. Most council constitutions follow a similar format, though some are now moving away from it.
- 3.3 The Constitution needs to be changed from time to time to ensure it reflects current practices, functions and structures and efficient working of the authority. This report recommends a range of changes reflecting current senior officer structure, and more efficient financial procedures and thresholds as well as some other relevant updates.
- 3.4 Various consequential amendments may need to be made to other parts the Constitution, numbering etc to ensure consistency and reflect these changes.

4.0 **Delegations**

- 4.1 The new CMT/SLT structure is now fully in place with all officers in post (with the Director of Resources to commence shortly). The Delegation Scheme in Part 3 of the Constitution has been updated to include reference to these new posts. These are already in place and do not amount to significant change to the Constitution, but flow from the restructure and confirms alignment of the delegations to the main responsibilities of the new senior officer structure. Members' confirmation of this update is sought.

The revised delegations are at:

<https://www.chesterfield.gov.uk/media/315643/constitution-part-three.pdf>

- 4.2 The opportunity has also been taken to seek approval for updates to some delegations in other respects, again to ensure efficient working and to reflect current practices and/or changed legal powers. These are set out in **Appendix C**.

5.0 Financial Thresholds and Procedures

- 5.1 The Chief Finance Officer carried out a thorough review of financial thresholds in the Constitution prior to retirement and made recommendations for an uplifting of thresholds to reflect current practices and acceptable financial limits. These have been considered by the Senior Leadership Team and the Corporate Management Team and the main changes are set out in Appendix A.
- 5.1 The Financial Procedural sections of the Part 4 of the Constitution were also reviewed by the Chief Finance Officer to reflect current and best practice. These revised documents are at Appendix B.

6.0 Human Resources/people management implications

- 6.1 The changes will enable more efficient working of the authority, reflecting the current structure and best practice. Officers and members will be able to operate within a clear framework.

6.0 Financial implications

- 6.1 The report proposes changes to financial thresholds within the Constitution to reflect appropriate levels for delegated authority. These thresholds have not been changed significantly, if at all, since the current Constitution was introduced in the early 2000s. The procedural changes reflect best practice and help bring financial practices up to date.

5.0 Legal and data protection implications

- 5.1 The Council must have a Constitution and this must be updated periodically to reflect current practices and decision making structures: it is a living document. Some changes flow from, eg changes in legislation or decisions made by the council or restructured posts replacing previous posts.
- 5.2 While the main changes are authorised by full Council, Council has previously delegated authority to Standards and Audit Committee to approve more routine Constitution changes.
- 5.3 The member and officer Constitution Working Group has considered how best to streamline and make more efficient the operation of the

Constitution. It is to consider further an enabling model, pushing decisions down to single members and officers wherever appropriate and practicable, to ensure the most efficient decision making at the authority. It is intended to submit a further report on these proposals to a future Council meeting.

6.0 **Equalities Impact Assessment (EIA)**

- 6.1 A preliminary EIA been carried out. The changes to not have any equalites implication and is not anticipated to have a disproportionate impact on any group. A copy of the EIA is attached at **Appendix D**.

7.0 **Risk management**

- 7.1 This report concerns updates to the Constitution to enable efficient and legal operation of Council decision making and to reflect current senior officer structure.

Description of risk	Impact	Likelihood	Mitigating Action
Constitution not reflect current officer structure	H	M	Regular review of functions and delegations and appropriate amendment.
Financial and other thresholds are no longer at appropriate levels, meaning that member decisions are necessary on matters which are more appropriate to be made by officers therefore leading to inefficient operation of the authority.	H	M	Increase officer delegations and adjust financial and other thresholds to reflect appropriate levels for the present times.
Sealing of documents is sometimes delayed when the Mayor and Vice Chair are not available. While this is	H	M	Adjust authority to seal documents so that in these circumstances two duly authorised signatories can attest

not usually a problem, rarely a document must be sealed and signed urgently, in order to be put in place.			the document instead of the Mayor/Deputy Mayor.
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8.0 **Alternative options and reasons for rejection**

- 8.1 **Do not change the Constitution:** The Constitution must be updated from time to time to reflect the current structure and legal functions and appropriate procedures. The Constitution is required by law and must be reviewed on a rolling basis.
- 8.2 **Do not change Financial thresholds:** If the recommended changes are not made the Financial procedures and thresholds would continue to operate as currently. Officers recommend the changes to enable more efficient operation of the authority.
- 8.3 **Do not make other recommended changes:** If the other recommended changes are not made those delegations would continue to operate as currently. Officers recommend the changes to enable more efficient operation of the authority.

9.0 **Recommendations**

- 9.1 That the Constitution be amended to take account of the recommended changes.
- 9.2 That the delegations reflecting the new Corporate Management Team structure be confirmed.
- 9.3 That the Constitution as amended be published.

10.0 **Reason for recommendations**

- 10.1 To confirm changes to reflect Corporate Management Team restructure, to seek authorisation for an uplift in some financial limits for delegations and to review financial procedures in accordance with modern best practice. Also to make changes to delegations for efficient working practices.

Decision information

Key Decision Number	NA
Wards affected	All
Links to Council Plan priorities	to provide value for money services

Document information

Report author	Contact number/email
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Background documents	
The Council's Constitution	
<i>This must be made available to the public for up to 4 years.</i>	
Appendices to the report	
Appendix A	Proposed changes to financial delegations
Appendix B	Amended Financial Procedure documents

Appendix A

Financial Changes

The significant suggested changes are summarised below.

Constitution - Part 2

Key decisions: changes are proposed to financial thresholds within the working definitions of Key Decisions as set out in paragraph 13.5.2 (page 43). These are to take account of the increase in financial levels of finance being dealt with at the authority:

A decision to vire more than £10,000 from one budget to another	<i>change to £50,000</i>
A decision to spend £50,000 or more from an approved budget	<i>change to £100,000</i>
A decision which would result in a saving of £10,000 or more to any budget Head	<i>Change to £50,000</i>
A decision to dispose of or acquire any interest in land or buildings with a value of £50,000 or more	<i>No change</i>
[the other working definitions do not have financial thresholds]	

Constitution - Part 3

1 It is recommended that a general delegation to Cabinet Members at G050L be changed to a delegation to relevant budget holders, with
so

*G050L To authorise capital or revenue spending (or capital receipts) of more than [£25,000] provided that **in relation to any item**, the spending or receipt:*

- accords with Standing Orders and Financial Procedure Rules, and the Budget and Policy framework Procedure Rules AND*
- accords with an approved policy or Cabinet decision AND*

- *is provided for in:
the annual revenue estimates, OR
an approved business plan OR
a supplementary estimate OR*

would become:

OFFICER DELEGATIONS: To any service manager who is the relevant budget holder:

[]D To authorise any capital or revenue spending (or receipts) contained in an approved budget.

2 With regard to the delegation to Cabinet Members at G080L:

Capital Programme

G080L To approve:

- *project evaluation reports*
- *post-project review reports required under Financial Procedure Rule 4.60*
- *reports on the additional cost of variations as required by Financial Procedure Rule 4.57.1 and 4.57.2 for projects within the overall responsibilities of the Cabinet Member concerned, where the project is:*

- *within the Capital Programme allocation approved by the Council, AND:*
- *worth less than £50,000, AND*
- *when completed likely to result in no additional revenue costs or to result in only minor additional revenue costs.*

It is recommended that the delegation be changed to a Cabinet delegation where the value is greater than £100,000 and an officer delegation to a member of SLT where the value is up to £100,000. This means that authority to make such decisions is now made either by Cabinet or officers.

Constitution – Part 4

The following procedure rules have been redrafted completely, updated and simplified (see attached) :

- the Budget and Policy Framework Procedure Rules (at page 58 in the current version)
- the Financial Procedure Rules (at page 84 in the current version) as the Finance Rules.

APPENDIX B

BUDGET AND POLICY FRAMEWORK PROCEDURES

1.1 Responsibilities for the budget and policy framework	###
1.2 Developing the budget and policy framework	###
1.3 Decisions outside the budget or policy framework.....	###
1.4 Urgent decisions outside the budget or policy framework.....	###

1.1 Responsibilities for the budget and policy framework

Full Council sets the budget and policy framework, the Cabinet and officers must act within it. The budget is the Council's overall budget. The Policy Framework includes the policies and strategies listed at Article 4 (Part 2) of this constitution.

1.2 Developing the budget and policy framework

- (a) The amount of consultation on the budget and policy framework must reflect the importance of the proposal. Consultation must include consultation with a scrutiny forum.
- (b) Any reports to the Cabinet must say what consultation there has been and what the results were. The Cabinet will consider the response to the consultation and draw up firm proposals. The report to full Council will reflect any comments made during the consultation and the Cabinet's response.
- (c) The Cabinet's proposals will go to full Council as soon as possible.
- (d) Full Council can:
 - Accept the Cabinet's proposals
 - Refer the proposals back to the Cabinet, or
 - Change the proposals, for example by adopting proposals of its own.
- (e) If full Council accepts the Cabinet's proposals without any changes, the decision will come into force immediately.
- (f) If full Council changes the Cabinet's proposals, it will be an in principle decision only.
- (g) The leader will be given a copy of an in principle decision. The in principle decision will come into force unless the leader objects in writing to the Monitoring Officer within five clear working days, giving reasons.
- (h) If the leader objects to an in principle decision, full Council will meet again within 10 further working days. At the meeting, full Council can accept the Cabinet's proposals or change them.
- (i) Full Council's decision will come into force immediately.
- (j) When full Council sets the budget, it will also say how much the Cabinet and specified officers can move between cost centres (see 18.10(b)). Any other changes must be made by full Council.

1.3 Decisions outside the budget or policy framework

- (a) The Cabinet, and any officers carrying out executive responsibilities can only take decisions if they are
- in line with the budget and policy framework
 - allowed under 1.4 (urgent decisions)
 - allowed under Financial Procedure Rules as summarised in Appendix 1 of the Rules.
 - necessary to obey the law or ministerial directions or government guidance.
- Any other decisions must be recommended to full Council.

- (b) The Cabinet or officers carrying out executive responsibilities will seek the Monitoring Officer or Chief Finance Officer's advice if it is unclear whether proposals are in line with the budget and policy framework.

1.4 Urgent decisions outside the budget or policy framework

- (a) The Cabinet or officers carrying out executive responsibilities can take a decision that is outside the budget or policy framework if:
- It is urgent
 - It is not practicable to arrange a full Council meeting
 - The chair of the relevant scrutiny forum agrees that the decision is urgent. (If the chair of the relevant scrutiny forum is absent, the Mayor can agree that the decision is urgent. If the Mayor is absent, the Deputy Mayor can agree).
- (b) The record of the decision must say why it was not practicable to arrange a meeting of full Council. It must also say that the chair of the scrutiny forum (or Mayor or Deputy Mayor) agreed that the decision was urgent.
- (c) The decision taker must take a full report to the next ordinary Council meeting explaining the decision. This must say why the decision was taken, why it was urgent and why it was not practicable to arrange a meeting of full Council. If the next meeting is within seven days of the decision being taken the decision taker will report to the next meeting after that.

18. FINANCE RULES

18.1	Responsibilities under the finance rules	XXX
18.2	Audit.....	XXX
18.3	Non-compliance with these Rules.....	XXX
18.4	Information and records.....	XXX
18.5	Budget Setting	XXX
18.6	Responsibility for Budget Decisions	XXX
18.7	Reserves and Provisions	XXX
18.8	Budgetary Control	XXX
18.9	Capital Strategy.....	XXX
18.10	Capital Programme Monitoring.....	XXX
18.11	Capital Project Approval	XXX
18.12	Capital Project Completion Reviews.....	XXX
18.13	Treasury Management.....	XXX
18.14	Asset Management	XXX
18.15	Ordering and Paying for Goods and Services	XXX
18.16	Contract Payments.....	XXX
18.17	Wages, Salaries and Pensions.....	XXX
18.18	Petty Cash.....	XXX
18.19	Income Collection.....	XXX
18.20	VAT and tax	XXX
18.21	Insurance.....	XXX
18.22	Risk Management.....	XXX
18.23	Money Laundering	XXX
18.24	Fraud and Corruption	XXX
18.25	Partnerships.....	XXX
18.26	External Funding.....	XXX

18.1 Status of and the responsibilities under the Finance Rules

The Finance Rules provide the framework for managing the authority's financial affairs. They apply to every Member and Officer of the authority and anyone acting on its behalf. The rules define the financial responsibilities of the full council, the Cabinet, Members and Officers. All Members and Officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorized, provides value for money and achieves best value.

(a) Responsibilities of the Chief Finance Officer

The Chief Finance Officer is responsible for regulating and controlling the finances of the Council and hence he/she shall, for the purposes of Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988, be responsible for the proper administration of the Council's financial affairs.

(b) Responsibilities of Service Managers

Service Managers are responsible for the financial management of their areas, they must:

- Ensure the highest standards of financial probity.
- Ensure compliance with the Finance Rules and any procedures or guidance issued by the Chief Finance Officer within their service area.
- Ensure that a proper scheme of delegation has been established in their area of responsibility and that it is operating effectively.
- Consult Internal Audit before making any changes to financial systems and procedures.
- Monitor monthly the overall financial position of their service area.
- Advise the Chief Finance Officer and relevant Cabinet member on issues/proposals that have a financial impact in their area.
- Provide information to the Council's auditors on a timely basis as required.
- Ensure that any audit recommendations are implemented within agreed timescales.

(d) Responsibilities of Line Managers

Line managers must make sure their staff understand and follow these Rules and any procedures and associated guidance issued by the Chief Finance Officer.

(e) Responsibilities of all Officers

Officers must be familiar with these Finance Rules and the Contract Rules and must understand how they affect their work. If any officer is unclear about these Rules, they must get advice before acting. They would normally get advice from their line manager but they can also talk to finance staff. Officers must ensure they are using the latest version of these Rules. This will always be the version in the Constitution

available on the intranet. Officers must show the highest standards of financial probity. As well as following these Rules, they must use their common sense and judgement.

18.2 Audit

(a) Internal Audit

In accordance with the Accounts and Audit Regulations the Council is responsible for ensuring an 'adequate and effective system of internal audit'. The Chief Finance Officer has responsibility for monitoring adherence to the Audit Plan. Audits will be carried out in accordance with CIPFA Guidelines. At the commencement of the financial year the Standards and Audit Committee will approve an audit plan for that year. On a quarterly basis the Standards and Audit Committee will receive an update report on the progress made in delivering the plan including progress on implementation of internal and external audit recommendations.

Service Managers must ensure that all the agreed recommendations in audit reports are implemented.

(b) External Audit

External Auditors review the Council's financial and management systems and report annually to the Standards and Audit Committee on the adequacy of the Council's internal controls. External Auditors have the right to inspect all records held by the Council.

The External Auditor undertakes an annual audit of the Council's Statement of Accounts, audits specified grant claims and reports annually on the Council's governance framework and delivery of value for money. The External Auditor has the right to inspect records and to ask for information and explanations. The Chief Finance Officer has overall responsibility for liaising with the external auditors.

18.3 Non-compliance with these Rules

If Officers suspect that these Rules have not been complied with, or they suspect fraud, corruption or poor value for money, they must tell their line manager (unless their line manager is involved). The Council's whistle blowing policy (Section 2 of the Constitution) has guidance on what to do if a line manager is involved. If these Finance Rules or the Avoiding Bribery Fraud and Corruption Policy have been breached, the Chief Finance Officer and/or the Monitoring Officer must be advised in writing by the line Manager as soon as possible.

18.4 Information and records

The Chief Finance Officer is responsible for the Council's accounting system, the form of accounts (including trading accounts) and the supporting financial records. The Chief Finance Officer will ensure that accounting records are sufficient to comply with the Accounts and Audit Regulations for the time being in force.

Service Managers must:

- Obtain the approval of the Internal Audit Manager before changes are made to existing financial systems or new systems acquired.
- Ensure that financial records are properly maintained and are held securely in accordance with the Council's Data Management Policies.
- Consult the Chief Finance Officer on proposals for establishing trading accounts.

18.5 Budget Setting

On an annual basis the Chief Finance Officer shall submit to Council a programme of capital expenditure and estimates of revenue income and expenditure for Council services for at least the proceeding four years. Council will approve the Council Tax for General Fund services and a weekly Council house rent for the ensuing year.

18.6 Responsibility for Budget Decisions

Responsibilities for budget decision are shown in the table below:

Cabinet Decisions	Full Council Decisions
Annual Budget Setting <ul style="list-style-type: none"> • Agreeing the strategy for setting fees and charges • Recommending the Local Council Tax Support Scheme to full Council • To recommend the planned use of reserves and delegation limits to full Council • Recommending the revenue budget and Council Tax to the full Council 	<ul style="list-style-type: none"> • Approving the Local Council Tax Support Scheme • Approving the use of reserves and delegation limits • Approving the revenue budget • Setting the Council Tax
Budget Monitoring & Changes <ul style="list-style-type: none"> • Monitoring delivery of financial performance • Recommending supplementary budget requests to full Council • Agreeing revenue budget transfers (virements) between services of between £50,000 and £100,000 that are in line with the Council's policy framework • Agreeing the use of reserves not included in the approved budget but within the delegated limits set each financial year. • Recommending the use of earmarked reserves for an unrelated purpose to the full Council. 	<ul style="list-style-type: none"> • Monitoring delivery of financial performance • Agreeing supplementary estimates to either the revenue or capital budgets • Agreeing budget transfers (virements) between services that are over £100,000 or breach the policy framework • Agreeing the use of earmarked reserves beyond the delegated limits set for the Cabinet or where there is a request to use an earmarked reserve for an unrelated purpose.
Capital Programme <ul style="list-style-type: none"> • Recommending the Capital Programme (General Fund 	<ul style="list-style-type: none"> • Agreeing or changing the Capital Programme (General

Cabinet Decisions	Full Council Decisions
<p>and Housing) to Full Council</p> <ul style="list-style-type: none"> • Agreeing virements within the approved Capital Programmes of between £50,000 and £100,000 (Senior Leadership Team to approve up to £50k) • Approving supplementary capital schemes which are fully funded from external sources and where there are no on-going revenue budget implications beyond those that can be accommodated within the delegates virement limits. 	<p>Fund and Housing)</p>
<p>Housing Revenue Account</p> <ul style="list-style-type: none"> • Recommending the Housing Rents and Business Plan to Full Council 	<ul style="list-style-type: none"> • Setting housing rents and agreeing the Housing Business Plan
<p>Treasury Management</p> <ul style="list-style-type: none"> • Reviewing the Treasury Management Strategy before it goes to Full Council 	<ul style="list-style-type: none"> • Agreeing or changing the Treasury Management Strategy
<p>Risk Management</p> <ul style="list-style-type: none"> • Recommending the Risk Management Strategy to full Council 	<ul style="list-style-type: none"> • Agreeing or changing the Risk Management Strategy
<p>Asset Management</p> <ul style="list-style-type: none"> • Recommending the Corporate Asset Management Plan to full Council • Recommending to the full Council transfer(s) of assets between the General Fund and Housing Revenue Account 	<ul style="list-style-type: none"> • Agreeing the Corporate Asset Management Plan • Agreeing asset transfers between the General Fund and Housing Revenue Account

18.7 Reserves and Provisions

The Chief Finance Officer shall establish reserves and provisions to meet known or estimated future liabilities.

There is a duty on the Chief Finance Officer to report on the robustness of the estimates and the adequacy of reserves when the Authority is considering its budget requirement and Members are required to have regard to this advice.

Service Managers must inform the Chief Finance Officer about potential future liabilities which they become aware of.

The relevant budget holder can incur expenditure covered by the planned use of Reserves included in the budget approved by the full Council. All other uses or Reserves should be approved as follows:

- The Senior Leadership Team/Cabinet can approve the use of earmarked reserves, for their originally intended purpose, within the delegated limits set by the full Council each financial year (**Appendix 1**).
- Any use of the Council's earmarked reserves beyond the delegated limits, or for an unrelated purpose, must be approved by the full Council.

The Chief Finance Officer can approve the use of Provisions where they are being used for their intended purpose (**Appendix 1**), otherwise full Council approval is required.

The details of these delegated decisions will be included in the next quarterly budget monitoring report to the full Council.

18.8 Budgetary Control

Ongoing budget management and control is necessary to ensure that approved budgets are used only for their intended purpose and accounted for and reported correctly and that Council services are delivered within budget.

(a) The following are the general principles of the budgetary control framework

- All budgets are assigned to a Service Manager who is accountable for the control and management of that budget in accordance with these Rules and any financial procedures or guidance issued by the Chief Finance Officer
- Service Managers will report on their budget on a regular basis to the Chief Finance Officer in a format and timeframe prescribed by the Chief Finance Officer.
- Service Managers will inform the Chief Finance Officer about any external grant applications and approvals and ensure that the grant conditions, including the claim submission dates, are met.
- The Chief Finance Officer will validate the information provided by the Service Managers and report periodically to relevant Officers and to the Cabinet on a quarterly basis. The report will include the projected outturn position, any associated risks and mitigating actions to be taken as well as the impact on future year budgets.
- The relevant Service Manager is the Officer accountable for authorising the commitment of resources against the budget.

(b) Virement Rules – Revenue

The overall budget is agreed by the Cabinet and approved by the Full Council. Senior Officers and budget managers are therefore authorized to incur net expenditure in accordance with the estimates that make up the budget for the current financial year.

The virement rules provide for the transfer of budgets within the financial year. A virement is a planned transfer of a budget for use in a different purpose to that originally intended.

A virement occurs when a budget is transferred from one subjective heading to another (for example from Supplies & Services to Transport expenditure) or from one service cost centre to another. Transfers within a subjective heading within the same cost centre are not defined as virements.

The scheme of virement enables budget holders to manage their budgets with a degree of flexibility and therefore to provide an opportunity to optimise their use of resources according to changing needs.

All virements must be notified in writing to the Chief Finance Officer.

The full Council approves the virement limits before the start of each financial year as part of the budget setting process. The current limits are shown in **Appendix 1**.

Service Managers should avoid supporting recurring expenditure from one-off sources of savings or income, or creating future commitments, including full-year effects of decisions made part way through a year, for which future resources have not been identified. On-going commitments must be met from within existing budgets.

Permanent virements would be addressed as part of the budgetary process for the following year or, where urgent, through the approval of the Cabinet and Council.

Revenue budgets may be vired to support capital expenditure. The rules concerning the virement of capital budgets are included in para. 18.10.

Full Council must agree any transfers between the General Fund and Housing Revenue Account.

(c) Supplementary Estimates

Where an item of overspend of revenue spend cannot be covered from virement then following consultation with the Chief Finance Officer and the Senior Leadership Team a supplementary estimate approval must be sought from the full Council.

The Cabinet and Senior Leadership can approve expenditure to be met from the Budget Risk Reserve or other appropriate reserve subject to the limits agreed by the full Council each year (**Appendix 1**).

The Cabinet, a committee of the Cabinet, or an individual Lead Member can make spending decisions which are contrary to or not in full accordance with the budget approved by the full Council if the decision is a matter of urgency. However, the decision may only be taken if:

- i) It is not practical to convene a quorate meeting of the full Council; and

- ii) The Chair of the Scrutiny Board or the Mayor or Deputy Mayor, in that order subject to availability, agrees that the decision is a matter of urgency.

Following the decision, a report will be provided to the next available full Council meeting explaining the decision.

(d) Carry Forward of Budget Underspends

Service Managers should submit carry forwards requests to the Senior Leadership Team for initial consideration before they are submitted to the Cabinet for final approval.

Requests will only be considered where there is an underspend on a Service's overall controllable budgets (i.e. excluding capital and support service recharges) and where the budget is to be used to finance one-off type expenditure in the following financial year.

18.9 Capital Strategy

The Chief Finance Officer will prepare a Capital Strategy which:

- Sets out the principles the Council will follow in its capital planning and management.
- Outlines the methodology for inclusion of schemes within the Capital Programme.
- Sets out the arrangement for management of capital schemes.

The Capital Strategy will be reviewed each year by the full Council at the same time as the Capital Programme is approved. The Capital Programme will detail the capital schemes to be undertaken over the following four financial years and how those schemes will be funded.

18.10 Monitoring of the Capital Programme

The Capital Programme is approved as part of the Council's annual budget setting process. Monitoring of the Capital Programme will be undertaken by the Chief Finance Officer in conjunction with Project Managers and associated Service Managers. A report will be submitted to relevant Officers periodically, and to the Cabinet on a quarterly basis, setting out the projected outturn and

progress of schemes including slippage, under and overspends together with any proposed mitigating actions.

The Cabinet can approve supplementary capital schemes provided they are fully funded from external sources and there are no on-going revenue budget implications.

Capital expenditures may only be incurred if:

- Budgetary provision has been made within the approved Capital Programme
- Project Evaluation report approval, if required, has been given (para. 18.11). This can take place either before or after the full Council has approved the inclusion of the scheme in the Capital Programme, but must be concluded before contracts are awarded. The Chief Finance Officer must be consulted on the draft Project Evaluation reports before they are presented for approval. The Senior Leadership Team can give project approval for schemes up to £100k and projects over £100k require Cabinet approval.
- The Contract Rules have been complied with.

Where it is anticipated that the budget for a capital project will be overspent against its approved budget the relevant Service Manager will be responsible for notifying the Chief Finance Officer. Overspend up to £50,000 may, with the approval of the Senior Leadership Team, be financed by virement from other schemes' underspending within the approved Capital Programme. Where monies cannot be vired from other schemes the projected overspend must be reported to the Cabinet and subsequently full Council requesting a supplementary estimate if required.

Where it is not possible for a scheme to progress in a particular year the Senior Leadership Team can approve the slippage of the balance of the approved capital budget for a scheme to future years.

18.11 Capital Project Evaluation Approval

Project approval must be obtained for projects in accordance with the following limits:

- Up to £100,000 – by the Senior Leadership Team.
- £100,000 and over – Cabinet

The project approval report must include:

- A description of the scheme which is sufficient to give an understanding of what the scheme involves.
- The aim of the project and any other ways of achieving it
- Effects on staffing
- Legal, contractual and prudential borrowing code implications
- If the Council is acting through an agent or partnership, legal advice on whether it has the power to act in this way
- Consultation undertaken.
- The estimated amount and timing of any capital and revenue spending, any ongoing effect on revenue, and whether this spending is included in the budget.
- The anticipated outcomes.
- A risk assessment of the proposal.
- Any sustainability, environmental, equalities considerations.

18.12 Capital Project Completion Reviews

When a discreet project is completed the relevant Service Manager must undertake a Post Implementation Review. Recurring programmes such as Decent Homes, and Disable Facilities Grants should be subject to a review at least every three years. The review should identify if the original budget, timescales and outcomes were achieved and if there are any lessons learnt that can be applied to improvement the delivery of future projects. The timing of the review will depend on when the outcomes can be fully evaluated. The review reports are to presented to:

- a) The Senior Leadership Team and Financial Planning Group for projects costing up to £100,000; and
- b) The Cabinet for projects costing £100,000 or more.

18.13 Treasury Management

(a) Treasury Management Strategy

The Chief Finance Officer will produce and submit the Treasury Management Strategy to the Cabinet for recommendation to full Council. The Strategy will set out the Council's treasury plans for the next year (including any prudential borrowing

plans). The Strategy will include a list of organisations the Council may borrow from and lend to and the maximum individual amounts it may borrow or lend. The Strategy must be agreed by full Council.

(b) Day-to-day Treasury management Operations

The Chief Finance Officer is responsible for day-to-day treasury management operations. These will follow the Treasury Management Strategy, and ensure that:

- All borrowing and investment complies with the Council's Treasury Management Strategy and the Chartered Institute of Public Finance and Accountancy's code of practice on treasury management
- All borrowing and lending is done in the name of the Council
- As a minimum a half yearly and annual update of treasury management activity will be reported to the Cabinet and the Standards and Audit Committee.

(c) Bank Account

Only the Chief Finance Officer or the Deputy S151 Officer may open a bank or building society account on behalf of the Council. The Chief Finance Officer is responsible for managing all accounts.

18.14 Asset Management

(a) Responsibilities of Corporate Property Adviser

The Corporate Property Adviser (being the Head of Contract (Keir) or other nominated property advisor) will:

- Produce guidelines for acquiring, managing and disposing of assets
- Make sure the Council's records include any money from sales
- Make sure the Council's records do not include the value of any assets that have been disposed of.

(b) Register of Fixed Assets

The Chief Finance Officer will keep a register of all fixed assets worth more than £10,000. Service Managers must report any acquisitions or disposals so that this can be kept up-to-date. Every year the Chief Finance Officer in conjunction with the Corporate Property Adviser will check that the assets are still shown at the right value, that they have a suitable asset life and that they have been properly depreciated.

(c) Disposing of assets (except land)

Subject to consultation with the Chief Finance Officer, Service Managers can dispose of assets worth up to £10,000. All disposals (including land) must be notified to the Chief Finance Officer.

(d) Arranging leases

The Chief Finance Officer must approve all leases for non-property items.

18.15 Ordering and Paying for Goods and Services

The Chief Finance Officer shall ensure that there are proper procedures and controls for ordering and paying for goods and services. Any new systems for orders or payments must be agreed by the Chief Finance Officer. Service Managers must ensure that:

- (a) Official orders (using the agreed corporate order form) are issued for all goods and services prior to receipt. Exceptions to this rule are:
 - (i) Utility bills
 - (ii) Payroll cheques
 - (iii) Staff expenses
 - (iv) Subscriptions
 - (v) Grants
 - (vi) Refunds
 - (vii) Compensation payments
 - (viii) Payments of rent for privately leased properties
- (b) Orders for goods and services must only be issued where the expenditure is provided for within the approved

budget or is covered by an appropriately approved virement or a supplementary estimate.

- (c) Official orders must indicate clearly the nature and quantity of the work or services required and also the financial commitment.
- (d) The authorization limits for requisitions and payments are:

Authoriser	Limit
SLT	Above £25,000
CMT	Up to £25,000
Budget Holders	Up to £2,500

- (e) Service Managers must also ensure:

- That staff involved in payment processing are adequately trained.
- That there is adequate separation of duties between staff ordering, receiving and approving invoices for payment.
- That suppliers are advised that the Council's preferred means of payment is by bankers automated credit (BACS) and that remittance advices should be sent via email.
- That only goods and services that have been received, examined and approved as to their quality and quantity or the work or service has been satisfactorily performed are paid for and that the prices, arithmetic and budget allocation are correct.
- That payments are timely and made within the Council's agreed terms of business, unless the invoice is in dispute.

(e) Responsibilities of Service Managers

Service Managers are responsible for their service areas' orders and for ensuring that invoices are appropriately approved. They must make sure that Officers who order and authorise invoices for payment have been properly trained and that there are adequate separation of duties between order and approval for goods.

Officers must also have regard to the guidance on the intranet in relation to the ordering and paying for goods and services.

18.16 Contract Payments

The Chief Finance Officer will keep a register of interim payments made under formal contracts. The register will include any other payments and related professional fees.

The Property Procurement and Contracts Manager will let the Chief Finance Officer have, as soon as possible, full details of contracts entered into by the Council.

Payments to contractors will be made only after certificates have been issued by the Service Manager or other officer authorised by him/her. The form of certificates will be approved by the Internal Audit Manager.

Variations to contracts must be authorised by the responsible Service Manager. The responsible Service Manager will issue to the contractor an official variation order in writing specifying the variation and the basis of charge. The responsible Service Manager will calculate the financial effect of the variation and maintain a record showing his/her up-to-date estimate of the revised contract sum.

The Service Manager must report in writing to appropriate member(s) in accordance with Part 3 of this Constitution: -

- If the original contract sum is increased by more than 10%, after allowing for any reductions in that sum;
- Where the estimated cost of any individual addition to the contract sum exceeds 10% of the original contract sum.

In exceptional circumstances where Service Manager have not been able to report items as above, the Chief Finance Officer will nevertheless pay any increases in costs over the contract sum, which have been certified by the responsible officer, in recognition of the Council's contractual obligations. However a report must still be submitted to the appropriate Member(s).

The Internal Audit Manager will, as far as s/he considers it necessary, examine contract final accounts. S/he can make whatever enquiries s/he needs to satisfy himself/herself that the accounts are accurate.

Within fifteen months of the completion of a contract, the responsible Service Manager and the Chief Finance Officer must report to the appropriate Member(s) on the final account.

- The report should compare the actual costs with those in the approved project evaluation report and should indicate reasons for variations.
- Final accounts should refer to the overall costs of schemes including the contract works element, design, supervisory, land and landscaping costs, etc.
- For capital receipt and revenue producing schemes, the report should also give a comparison of actual and anticipated receipts and identify any anticipated delays.

Final certificates (i.e. for final payment less retention monies) should not be issued until final accounts have been examined by the Internal Audit Manager. In cases where final accounts exceed original contract sums as adjusted for approved variations, final certificates should not be issued until the final amounts have been approved by the appropriate Member(s). Specific provision should be made for this in contract documents.

Where the completion of a contract is unreasonably delayed by the contractor, the Service Manager involved will, after consultation with the relevant Service Manager in Legal Services, take appropriate action to claim for liquidated damages.

Performance bonds will not be released until Certificates of Practical Completion have been issued.

In cases where contractors have gone into liquidation/bankruptcy or have otherwise failed to fulfil their contractual obligations, the approvals of the relevant Service Manager in Legal Services and the Internal Audit Manager must be obtained before contract bonds are released.

18.17 Wages, Salaries and Pensions

The Council has appointed a contractor to be responsible for paying all wages, salaries and expenses, including councillors' allowances.

Service Managers must advise the Contractor on a timely basis of any changes to staff pay and any deductions that need to be made, in particular:

- Appointment, resignations, dismissals, suspensions, secondments and transfers
- Long term absences from duty for sickness or other reasons apart from approved leave
- Changes in remuneration, other than normal increments and pay awards

- Information necessary to maintain records for service for superannuation, income tax, national insurance and sickness or maternity benefit

All salaries and wages and allowances will be paid into an employee's or member's bank account.

18.18 Petty Cash

The Chief Finance Officer will oversee the system of petty cash floats and may provide petty cash advances for such officers of the Council as may need them. Floats will only be topped up when a proper claim is made with receipts for all items. The Chief Finance Officer will give detailed guidance on petty cash.

18.19 Income Collection

(a) Responsibilities of the Senior Leadership Team

To ensure that appropriate arrangements are in place to safeguard the Council's resources

(b) Responsibilities of Chief Finance Officer

The Chief Finance Officer is responsible for ensuring that systems are in place to ensure that all income is identified, collected, receipted and promptly banked.

(c) Responsibilities of Service Managers

Service Managers must have robust processes in place for dealing with income collection in their service area where required. There must be extra controls in service areas that collect cash or cheques. Service Managers must ensure that:

- They raise invoices as soon as reasonably practical for all goods and services provided on credit.
- They follow the systems and procedures laid out by the Chief Finance Officer.
- Officers are suitably trained.
- Official receipts are always given.
- Proper records are kept.
- Money is banked on the day it is received or as soon as possible thereafter.
- VAT is properly accounted for.

Service Managers must have effective systems for monitoring income due to their service area. The Chief Finance Officer must be advised if income targets are unlikely to be achieved and must be advised of any cases of financial impropriety.

(d) Writing off debt

Amount for any one debtor in any one year	Approved By
Up to £2,000	Customer Services Manager (Arvato) in consultation with the relevant Service Manager
£2,000 & £5,000	Chief Finance Officer and Customer Services Manager (Arvato) in consultation with the relevant Service Manager
£5,000 to £50,000	Executive Member
Above £50,000	Cabinet

(e) Cancelling debt

Debts can only be cancelled if they have been raised by mistake. All cancellations over £2,000 must be agreed by the Chief Finance Officer.

18.20 VAT and tax

The Chief Finance Officer is responsible for keeping tax records, advising on tax, making tax payments, receiving tax credits and submitting tax returns. The Chief Finance Officer will advise Officers on the appropriate records to be maintained.

18.21 Insurance

The Chief Finance Officer will be responsible for establishing adequate insurance cover for the Authority including the amount of excess and the extent to which self-insurance is undertaken.

Service Managers must:

- assist in the annual review of insurance and advise the Chief Finance Officer of changes in insurable risks

- process insurance claims in accordance with procedures laid down by the Chief Finance Officer

18.22 Risk Management

The key responsibilities in relation to Risk Management are:

- (a) **Full Council** – to approve the Policy and Strategy.
- (b) **Cabinet** – to recommend the Policy and Strategy to the full Council and monitor implementation.
- (c) **Standards & Audit Committee** – review the effectiveness of the arrangements.
- (d) **Senior Leadership Team & Corporate Management Team** - to review and update the Corporate Risk Register.
 - To ensure compliance with the Risk Management Strategy

(b) Responsibilities of the Chief Finance Officer

- To periodically review and present for adoption the Risk Management Strategy.
- To present monitoring reports in accordance with the terms of the adopted Risk Management Strategy.
- To provide advice to officers and councillors on risk management
- To provide and facilitate training to officers and members on risk management.

(c) Responsibilities of CMT & Service Managers

- Identify and manage risk in their service areas
- Have contingency plans for major risks
- Advise the Chief Finance Officer of any risk that could result in losses or claims against the Council

18.23 Money Laundering

The Council has procedures for checking the recording the intentions of the people and organisations it does business with and for reporting suspected money laundering.

The Chief Finance Officer is the appointed Money Laundering Officer and as well as ensuring that there are procedures in place to combat money laundering he/she is required to maintain the review the Council's Anti Money Laundering Procedures.

Officers must not:

- Conceal, disguise, convert, transfer or remove anything gained through crime.
- Tip off a criminal or suspect
- Assist money laundering

18.24 Fraud and Corruption

The Internal Audit Manager will develop and maintain an Anti-Fraud and Corruption Strategy for approval by the Standards and Audit Committee. Staff and Members should report any concerns about financial irregularities to the Internal Audit Manager.

18.25 Partnerships

The **Cabinet** is responsible for approving delegations, including frameworks for partnerships. The delegations are set out in Part 3 of the Constitution. Where functions are delegated, the cabinet remains accountable for them to the full council.

The **Chief Finance Officer** must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

Service Managers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies and that all such agreements and arrangements are properly documented.

18.26 External Funding

The Chief Finance Officer must be advised on a timely basis of any application for external funding by the relevant Lead Officer prior to it being submitted.

The Lead Officer must provide such information as requested by the Chief Finance Officer, including copies of proposed agreements and conditions of grant and any financial implications (including match funding requirements or on-going revenue costs).

All external applications must be authorized by the Chief Finance Officer prior to their submission by the Authority.

The Chief Finance Officer must be notified of the outcome of external funding applications at the earliest opportunity and successful external funding applications will be reported to members as part of the normal budget monitoring reports or by a report seeking project approval.

The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

The Service Manager responsible for the Lead Officer must ensure that all grant conditions are met and that there is a report made to the Chief Finance Officer if there is any risk of grant conditions not being met.

APPENDIX 1

DELEGATED LIMITS

The delegated limits are to be approved by the full Council each financial year in the Budget Setting report.

All delegated decisions are to be reported to the Chief Finance Officer for inclusion in the next budget monitoring report to the full Council.

1.0 Use Of Reserves And Provisions (Finance Rule 18.7)

	Chief Finance Officer	Senior Leadership Team	Cabinet	Council
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	Chief Finance Officer	Senior Leadership Team	Cabinet	Council
General Fund Reserves	-	<p>In accordance with the intended use of the reserve. For invest-to-save type projects with a pay-back period within 12 months. For each reserve:</p> <ul style="list-style-type: none"> • An individual project limit of £25k; & • An aggregate limit for the financial year, the lower of, £100k or 50% of the opening balance. <p>Provided it does not take the balance below any minimum level set by the full Council (e.g. minimum working balance).</p>	<p>In accordance with the intended use of the reserve. For invest-to-save type projects with a pay-back period within 3 years. For each reserve:</p> <ul style="list-style-type: none"> • An individual project limit of £50k; & • An aggregate limit for the financial year, the lower of, £150k or 50% of the opening balance. <p>Provided it does not take the balance below any minimum level set by the full Council (e.g. minimum working balance).</p>	<p>If above the delegated limits;</p> <p>If to be used for a purpose other than that for which the reserve was established; or</p> <p>If it takes the reserve balance below the approved minimum level.</p>
HRA Balance	-	<p>Individual projects up to £50k.</p> <p>Aggregate annual limit of</p>	<p>Individual projects up to £100k.</p> <p>Aggregate annual limit of</p>	<p>If above the delegated limits;</p> <p>If to be used for a purpose other than that for which the reserve was</p>

	Chief Finance Officer	Senior Leadership Team	Cabinet	Council
		£200k. Subject to maintaining the minimum balance approved by the full Council.	£300k. Subject to maintaining the minimum balance approved by the full Council.	established; or If it takes the reserve balance below the approved minimum level.
Provisions E,g. insurance and Transport Company Pensions	100% - provided used for its intended purpose.	-	-	If to be used for a purpose other than that for which the provision was established.

2. Virement Limits (Finance Rule 18.8b)

Limit	Approved By
Within CMT areas of responsibility to a maximum of £10,000.	CMT Mangers in consultation with the Chief Finance Officer
Transfers within or between CMT service areas to a maximum of £50,000.	Senior Leadership Team
Transfers within or between CMT service areas from £50,000 to £100,000.	Cabinet
Transfer above £100,000	Council

APPENDIX C

Other changes sought

These changes are:

Authority to grant Leases

- **Currently** there is an officer level delegated authority to grant leases of non-housing land up to 3 years in length (Part 3 G300D – page 88 and definition of Short-Term Letting on page 15). Leases in excess of this currently require approval from the Deputy Leader/Cabinet Member for Planning.

Approval is sought for delegated authority for officers to grant leases of up to 5 years. This reflects the market norm and helps the Council secure its revenue streams. There would be fewer reports for the Cabinet Member to consider and more efficient working of the non-housing letting process. Where appropriate the terms of the lease could provide for a rent review and break option for the tenant in the third year.

Sealing of Documents

- **Currently** all Council documents executed under seal must be signed by the Mayor (or Deputy Mayor) plus an Authorised Signatory (usually a Council solicitor).
- **Approval is sought** for authority, in the very rare instances of the absence of both the Mayor and Deputy Mayor or in cases where a document must be completed urgently, for the sealed document to be signed by two authorised signatories (ie no Mayoral signatory). Authorised signatory will mean the Local Government and Regulatory Law Manager or any other person authorised by him/her in writing.

APPENDIX D

Equalities Impact Assessment

Chesterfield Borough Council

Equality Impact Assessment - Preliminary Assessment Form

The preliminary impact assessment is a quick and easy screening process. It should identify those policies, projects, services, functions or strategies which require a full EIA by looking at negative, positive or no impact on any of the equality groups.

Service Area: Legal

Section: Legal

Lead Officer: Monitoring Officer

Title of the policy, project, service, function or strategy the preliminary EIA is being produced for: Constitution Updates

Is the policy, project, service, function or strategy:

Existing ☐

Changed ☒

New/Proposed ☐

Q1 - What is the aim of your policy or new service?

The Constitution needs to be changed from time to time to ensure it reflects current practices, functions and structures and efficient working of the Council. The proposal recommends a range of changes reflecting current senior officer structure, and more efficient financial procedures and thresholds as well as some other relevant updates.

Q2 - Who is the policy or service going to benefit?

The updates will support the efficient working of the Council.

Q3 - Thinking about each group below, does, or could the policy, project, service, function or strategy have an impact on protected characteristics below? You may also need to think about sub groups within each characteristic e.g. older women, younger men, disabled women etc.

Please tick the appropriate columns for each group.

Group or Protected Characteristics	Potentially positive impact	Potentially negative impact	No impact
Age – including older people and younger people.			✓
Disabled people – physical, mental and sensory including learning disabled people and people living with HIV/Aids and cancer.			✓
Gender – men, women and transgender.			✓
Marital status including civil partnership.			✓
Pregnant women and people on maternity/paternity. Also consider breastfeeding mothers.			✓
Sexual Orientation – Heterosexual, Lesbian, gay men and bi-sexual people.			✓
Ethnic Groups			✓
Religions and Beliefs including those with no religion and/or beliefs.			✓
Other groups e.g. those experiencing deprivation and/or health inequalities.			✓

If you have answered that the policy, project, service, function or strategy could potentially have a negative impact on any of the above characteristics then a full EIA will be required.

Q4 - Should a full EIA be completed for this policy, project, service, function or strategy?

Yes ☐
No ☒

Q5 - Reasons for this decision:

The updates are not anticipated to have disproportionate impact on any groups.

Please e-mail this form to the Policy Service before moving this work forward so that we can confirm that either a full EIA is not needed or offer you further advice and support should a full EIA be necessary.