

For publication

Constitution Updates – Delegation Changes

MEETING: 1. Standards and Audit Committee

DATE: 1. 25th July 2018

REPORT BY: Director of Finance and Resources
Monitoring Officer

For publication

1.0 Purpose of report

1.1 To inform members about, to seek approval and confirmation of, updates to the Constitution.

2.0 Recommendations

2.1 That the Committee agrees the changes to financial thresholds and delegated complaint compensation limits at paragraph 6.0 of this report.

2.2 That the Committee notes the other updates to the Constitution.

2.3 That the current published version of Constitution be confirmed as amended by this report.

2.4 That the Committee notes that the updated Constitution will go before Cabinet and Council for approval.

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 is 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. The constitution is publicly available on the Council's website.
- 3.3 The Constitution needs to be changed and updated from time to time to ensure it reflects current practices, functions and structures and efficient working of the authority.
- 3.4 Changes to accord with the law are incorporated with periodic reviews of the parts of the constitution and logical changes resulting from restructures usually follow automatically. Minor corrections/changes and clarified/simplified drafting are also carried out from time to time by the Monitoring Officer.
- 3.5 While Full Council will consider the main changes, the less significant changes requiring approval are delegated to this Committee. Various consequential amendments may need to be made to other parts of the Constitution, numbering etc to ensure consistency and reflect these changes and these are the responsibility of the Monitoring Officer.
- 3.6 This Committee last considered and approved changes to the Constitution in November 2017 and then in February 2018. This report is for the Committee to note various recent changes, approve others and to confirm the current version of the Constitution.
- 3.7 It is also intended to take the complete Constitution to Cabinet and full Council for confirmation.

4.0 Rolling Review

- 4.1 In addition to routine updates and changes, since 2017 the Monitoring Officer has been carrying out a formal rolling review of each part of the constitution. This is to help updates to be proactive rather than just reactive. Some parts have been reviewed and others are pending.

5.0 Schedule of Changes

- 5.1 Since 2011 a schedule of changes is published with the Constitution and updated regularly.
- 5.2 Since this Committee last considered the Constitution in April, reviews and updates were as follows:

Part 4 : Clarified Access to Information urgency provisions
 Clarified Financial Regulations officer spending
 delegations
 Updated EU procurement thresholds

- 5.3 The published version of the Constitution is on the Council's website at <https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx>

6.0 Updates needing approval

Financial Thresholds

- 6.1 The Director of Finance and Resources has reviewed various financial thresholds contained in the Constitution, particularly in the Financial Regulations in Part 4.
- 6.2 He recommends the following changes in order to comply with best practice, for the effective working of the Council:

Finance Rule 15: Ordering and paying for goods and services

Authoriser	Current Limit	Proposed Limit
SLT	Above £25,000	Above £100,000
CMT/SLT	Up to £25,000	Up to £100,000
Budget Holders	Up to £2,500	Up to £2,500

Finance Rule 19(d): Writing off debt (e.g. business rates, council tax etc)

<i>Current</i> Amount for any one debtor in any one year	<i>Proposed</i> Amount for any one debtor in any one year	Approved By
Up to £2,000	Up to £2,000	Customer Services Manager (Arvato) in consultation with the relevant Assistant Director/Service Manager
Between £2,000 and £5,000	Between £2,000 and £20,000	Chief Finance Officer and Customer Services Manager (Arvato) in consultation with the relevant Assistant Director/Service Manager
Between £5,000 and £50,000	Between £20,000 and £50,000	Executive Member (meeting with the Chief Finance Officer)
Above £50,000	Above £50,000	Cabinet

Delegated compensation levels

- 6.3 Part 2 of the Constitution includes, at Article 9.4, the role and function of the Standards and Audit Committee.
- 6.4 The non-executive functions delegated to the committee by local choice include, at Paragraph (f) – page 32 - the function relating to complaints and Ombudsman matters. The committee has delegated authority to approve payments in cases of maladministration leading to adverse effect on any person as a result of the authority's action or failure to act.
- 6.4 Paragraph (f) also contains a delegation to each Assistant Director (S011D) to make a compensation payment or benefit of up to £500 on complaints where the Council accepts fault.
- 6.5 The delegation has been set at this level for many years, and in the Monitoring Officer's and Director of Finance and Resources view should be reviewed. While payments above this level are not made often, some latitude is needed so that settlement can be reached without delay and to allow some flexibility to officers, in the light of current compensation levels expected by the Ombudsman.

6.6 Accordingly, it is suggested that this delegated limit be increased to £2000, plus any additional sum, if appropriate, to reimburse the complainant for any reasonable expense they have been put to as the result of the Council's fault.

7.0 Human Resources/people management implications

7.1 The changes enable more efficient working of the authority, reflecting the current structure and best practice. Officers and members are able to operate within a clear framework and delegated limits and are already working within approved budgets.

8.0 Financial implications

8.1 The report proposes changes which will lead to greater efficiency and cost effectiveness in decision making.

9.0 Legal and data protection implications

9.1 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. Other changes need formal approval.

9.2 While the main Constitution changes are authorised by full Council, Council has previously delegated authority to Standards and Audit Committee to approve more routine Constitution changes.

10.0 Risk management

10.1 This report concerns updates to the Constitution to enable efficient and legal operation of Council decision making, to strengthen internal audit procedures and to introduce more flexible and efficient procedures for signing Council documents.

Description of risk	Impact	Likelihood	Mitigating Action	Resulting Impact	Resulting Likelihood
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Constitution not reflect current requirement of the Council	H	M	Regular review of all parts of the Constitution and appropriate proactive and reactive amendment.	L	L
Financial limits are not adjusted periodically causing delays to decisions, contracts and complaints	H	M	Regular review of financial thresholds to ensure effective working of the organisation	L	L

11.0 Alternative options and reasons for rejection

11.1 **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. An alternative is not to adjust financial thresholds, and rely on current limits and thresholds.

12.0 Recommendations

12.1 That the Committee agrees the changes to financial thresholds and delegated complaint compensation limits at paragraph 6.0 of this report.

12.2 That the Committee notes the other updates to the Constitution.

12.3 That the published version of Constitution be confirmed as amended by this report.

12.4 Notes that the updated Constitution will go before Cabinet and Council for approval.

13.0 Reason for recommendations

13.1 To ensure effective and efficient operation of the Council.

Document information

Report author		Contact number/email
Gerard Rogers		01246 345310 gerard.rogers@chesterfield.gov.uk
Background documents		
The Council's Constitution – on Council website https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx		
<i>This must be made available to the public for up to 4 years.</i>		
Appendices to the report		
	none	