

For publication

Delegation Scheme and Constitution

Meeting:	Standards and Audit Committee
Date:	28 TH July 2021
Cabinet portfolio:	Governance
Directorate:	Corporate

1.0 Purpose of report

1.1 To seek approval of updates to the Constitution.

2.0 Recommendations

2.1 That members confirm the changes to Constitution, and agree the delegations, proposed at Appendix 1.

3.0 Reasons for Recommendation

3.1 To ensure effective and efficient operation of the Council.

4.0 Report Details

4.1 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 in Part 3 to whom decision making over the Council's various functions is delegated.

4.2 The current form of Constitution has been in place since the early 2000s, using a government model. 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 at

<https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx>

- 4.3 The Constitution needs to be changed and updated from time to time to ensure it reflects current legislation, practices, functions, structures and efficient working of the authority.
- 4.4 Full Council considers the main changes and other changes are delegated to Standards and Audit Committee. Any consequential amendments and general updates are the responsibility of the Monitoring Officer.
- 4.5 Council approved and confirmed the Constitution at its 28th April 2021 Annual Business Meeting.
- 4.6 Since that time general reviews and routine updates to the Constitution have continued, with recent attention being given to formatting issues.
- 4.7 Further changes requiring approval by this Committee (or delegations to enable specific reviews to be carried out) are set out in Appendix 1.

Decision information

Key decision number	N/A
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 – 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	
Appendix 1	Proposed changes to: Part 3 - property delegations Part 4 – Contract Procedure Rules

Appendix 1

Constitution changes requiring approval by Standards and Audit Committee

Council Constitution:

<https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx>

Changes shown in red below

Part 3 – Delegation Scheme

Property and Estates related functions - When the property and estates function was contracted to Arvato their officers were restricted in the nature of functions that could be delegated to them. Accordingly various functions were delegated to the Property, Procurement and Contracts Manager “after consultation with the Corporate Property Manager”.

With this service back in house, the distinction is no longer necessary and these property related delegations can now revert to the Corporate Property Manager.

***It is therefore recommended** that the Local Government and Regulatory Law Manager be delegated to review the property and estates provisions of Part 3 of the Constitution and to make changes accordingly.*

Part 4 – Rules of Procedure: Contract Procedure Rules

Page 133

- 15.5 A contract must be executed as a Deed where:
 - 15.5.1 the Council wishes to enforce the contract for more than six years after it ends
 - 15.5.2 the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services

- 15.5.3 there is any doubt about the authority of the person signing for the contracting party
- 15.5.4 the total value is expected to exceed £100,000
- 15.5.5 the Regulatory and Local Government Law Manager so directs.

However, this paragraph 15.5 shall not apply:

- when the selected procurement route is by use of a framework agreement (see paragraph 7) AND
- the framework terms and conditions provide that documents are to be executed as a simple contract and not as a deed

15.6 Contract formalities

CONTRACT VALUE	SIGNATORY/EXECUTION REQUIREMENTS
Over £100,000.00	The contract must be executed as a deed (see 15.4)
£50,000.00 to £100,000.00	Signed by the Regulatory Law Manager or the Chief Executive
£25,000.00 to £49,999.00 £100,000.00	Signed by the Chief Executive or the Regulatory and Local Government Law Manager or an officer of the Council who is a Solicitor or Chartered Legal Executive of five or more years standing
< £25,000.00	Formalised by the issue of an award letter and the subsequent issuing of a purchase order where the contract is for works or services

Notes on the changes:

15.5 This proposed change reflects the increasing use of framework agreements (defined in paragraph 7 of the Contract Procedure Rules), which permit the Council to choose contractors from a recognised framework that the Council is eligible to use (without a full procurement processes) but following procedures determined by the framework's conditions.

15.6 This proposed change reflects that contracts are increasingly valued at greater than £49,000 and a wider pool of signatories is required. It supplements a change approved at the April meeting of this Committee, when the Legal Executive manager was added as a signatory (and corrects the name of their professional qualification). It also reflects wider changes to authorised signatories for the Council, some of which resulted from the need for greater flexibility of procedures since Covid-19. The Acting Director of Finance has agreed to this change.

Contract Procedure Rules Generally: Currently many of the approvals under the rules need to be given by the Regulatory and Local Government Law Manager. In practice most contract legal issues are now decided by the Property, Procurement and Contracts Law Manager or the in-house Procurement Unit. The Regulatory and Local Government Law Manager making decisions relating to governance and contract waivers and being arbiter and/or (with the chief executive) the referral point where procedures have been breached.

It is therefore recommended that the Local Government and Regulatory Law Manager be delegated to review the provisions of the Contract Procedure Rules and to make changes accordingly.