

For publication

Delegation Scheme and Constitution

Meeting:	STANDARDS AND AUDIT COMMITTEE
Date:	13 TH SEPTEMBER 2023
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 15th May 2023 Annual Business Meeting¹.

4.6 At the same meeting Council approved² various changes to:

¹ <https://chesterfield.moderngov.co.uk/documents/s45983/Report%20to%20Council%20-%20Delegation%20Scheme%20and%20Constitution%20-%20May%202023.pdf>

- Cabinet portfolios and frequency
- Changes to the size of certain committees
- overview and scrutiny arrangements

These approved changes are being incorporated into the Constitution.

4.7 Additional proposed changes were approved by this Committee at its July meeting.

Decision information

Key decision number	<i>All key decisions must be in the Forward Plan at least 28 days in advance. There are constitutional consequences if an item is not in the Forward Plan when it should have been. Contact Democratic Services if in doubt.</i>
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 Constitution
Appendix 2	Proposed changes to HR related delegations

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>

Where appropriate changes are shown in red below.

Part 3 – Delegation Scheme – Community Grants, CIL Neighbourhoods Fund, Health and Wellbeing Partnership grants and spending

The Council awards community grants from the community grants fund, CIL neighbourhoods fund and other grants/spend within the health and wellbeing partnership. These awards are to voluntary and community organisations. Decisions on these (usually under £10,000 but occasionally may be up to £50,000) are usually made by the Service Director - Leisure, Culture and Community Wellbeing under a general delegation.

However, it is considered that there should be a specific officer delegation for spend in these areas for avoidance of doubt. It is proposed that a new officer delegation should be agreed as follows:

Community Grants

OFFICER DELEGATIONS: To the Service Director - Leisure, Culture and Community Wellbeing:

#####D To make decisions on awards of grants or spending under Council community grants schemes including Community Grants, CIL Neighbourhoods Fund, and the Health and Wellbeing Partnership in consultation with any relevant partnership, and in consultation with the relevant Cabinet member if the proposed award or spend is over £25,000.

Part 4 – Rules of Procedure: Contract Procedure Rules (CPRs)

Waivers

Under Part 4 there are limited circumstances where the usual procurement rules (quotes, tenders etc) may be waived. These circumstances are set out in detail in Paragraph 3 of the CPRs. Any waiver application receives initial consideration by the Procurement Unit and only once it is considered to be approvable is it submitted for a decision. The Procurement Unit is currently reviewing waiver procedures.

Currently waiver applications may only be granted by the Head of Regulatory Law (and together with the Chief Executive they receive reports from Service Directors on urgent waivers). This means that when the Head of Regulatory Law is absent there is currently no substitute officer to consider waiver applications. While rare, this can lead to delay decisions on waiver applications.

Accordingly, it is proposed that in the absence of the Head of Regulatory Law one of the Regulatory Law solicitors be authorised to consider and approve any waiver application (or receive any report on an urgent waiver).

Contract Award Letters

Members will recall that at the July meeting of this committee some changes were made to the Contract Procedure Rules following a review by the Head of Procurement and the Property, Procurement and Contracts Law (PPC) Team Manager over the number of contracts requiring a formal contract document.

The changes approved at the meeting meant that contracts with a value of between £25,000 and £50,000 may now be formalised by the issue of an award letter, rather than a formal contract document, unless there are reasons for it to be dealt with otherwise.

A further amendment is required, referred to in brief at the meeting, but not minuted, in order for the Head of Procurement to be authorised to sign award letter in these circumstances. So a further change is proposed to the table in the CPRs (previously agreed amendments shown in blue and the proposed changes in red):

CONTRACT VALUE	SIGNATORY/EXECUTION REQUIREMENTS
Over £100,000.00	<p>The contract must be executed as a deed or subject to paragraph 14.4 and 14.5, if not executed as a deed, signed by:</p> <ul style="list-style-type: none"> • the Chief Executive OR • The Head of Regulatory Law and Monitoring Officer OR • two officers of the Council who are Solicitors or Chartered Legal Executives of five or more years standing*
£50,000.00 to £100,000.00	<p>A contract signed by:</p> <ul style="list-style-type: none"> • the Chief Executive OR • the Head of Regulatory Law and Monitoring Officer OR • an officer of the Council who is a Solicitor or Chartered Legal Executive of five or more years standing*
£25,000.00 to £50,000.00	<ul style="list-style-type: none"> • Formalised by the issue of an award letter, signed by the Head of Procurement, and the subsequent issuing of a purchase order where the contract is for works or services <p>Or, where appropriate on the advice of the Head of Procurement and / or the Property, Procurement and Contracts</p>

	<p>Law Manager, a contract signed by:</p> <ul style="list-style-type: none"> • the Head of Regulatory Law and Monitoring Officer 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

* and authorised as signatories by the Head of Regulatory Law and Monitoring Officer

It is therefore recommended that the Head of Regulatory Law be authorised to make the above changes to the CPRs and any consequential changes.