

# GOVERNANCE COMMITTEE

21 NOVEMBER 2017

## REPORT OF THE MONITORING OFFICER

### CONSTITUTION UPDATE 2017 18

#### 1.0 PURPOSE OF REPORT

1.1 The Committee is requested to consider new items or changes to the Constitution and those approved will be referred to the Council for adoption and incorporation into the Council's Constitution.

#### 2.0 RECOMMENDATIONS

2.1 To approve the following changes to the Constitution and refer the same to Full Council for adoption in the Constitution :-

##### (a) Part 5 - Roles and Responsibilities of Members – Officer Appraisals

To approve removal of reference to Member involvement in appraisals for the Deputy Chief Executive and the Corporate Director within the Roles and Responsibilities of Members document at Part 5 of the Constitution (paragraph 3.3 of the report refers).

##### (b) Part 4 - Contract Procedure Rules

To approve 3 new appendices to the Contract Procedure Rules as detailed in paragraph 3.4 of the report and which are attached :-

- Appendix A – Approval for the use of a Framework Agreement
- Appendix B – Approval for Contract Award
- Appendix C – Approval to Extend a Contract

##### (c) Part 4 - Financial Procedure Rules

To approve the following 3 new paragraphs at Section 3 of the Financial Procedure Rules as detailed in paragraph 3.5 of the report :-

##### Section 3 – Financial Systems and Procedures

##### 2. Income and Expenditure

##### *Key Controls*

*2.2(k) - set up and operation of a PayPal or World Pay account for the collection of income from specific website transactions within services shall require the approval of the Corporate Director, who shall establish appropriate procedures for their operation. Where applicable, the Corporate Director should nominate a separate PayPal administrator and certifying officer whose responsibility will entail reconciling the income received and charges levied via the PayPal account to amounts due and*

*to the Council's financial system*

**Responsibilities of Corporate Director**

**2.7 - to authorise the setting up and controls to operate with regard to a PayPal account for the collection of income from specific website transactions within services as stated in the key controls above**

**Responsibilities of Directors / Heads of Service**

**2.20 - to request the Corporate Director to set up a PayPal account for their service if required and to nominate a PayPal administrator who will be responsible for the operation of the account in line with the required procedures**

**(d) Part 3 – Terms of Reference of Policy, Finance and Administration**

**To amend the existing terms of reference to include new paragraphs 14 - 18 set out at Appendix D which deal with disciplinary matters relating to the Council's statutory officers.**

**(e) Part 3 – Terms of Reference of the Appeals Committee**

**To amend the existing terms of reference of the Appeals Committee to amend paragraph 2 to read as follows:**

**“To determine any appeals in respect of staff matters as detailed and provided for in the Council's human resources policies and procedures including appeals against decisions of the Policy, Finance and Administration Committee to take action short of dismissal with respect to the Council's Statutory Officers”**

**Recommendation (d) and (e) above make the consequential amendments to the Constitution required as a result of a resolution of Council on 11 October 2017.**

2.2

**To note that the Monitoring Officer has delegated authority to make amendments following legislative or other statutory changes and minor procedural and operational changes. Such changes will be reported to the Governance Committee and subsequently the Council, as soon as practicable thereafter.**

**3.0 KEY ISSUES**

3.1

**As the Constitution is a living document, any additions or changes are brought to the Committee's attention as soon as these come to light to enable the Council's work to move forward and the Constitution to be as up to date as possible. The Council's Strategic Management Team and T3 (Third Tier Officer Group) are involved in updating their respective areas of the Constitution.**

3.2

**The Committee is to refer its recommendations for amending the Constitution to the Full Council for approval and inclusion in the Constitution.**

3.3

**Part 5 - Roles and Responsibilities of Members – Officer Appraisals**

**The Leader and Chief Executive feel it would be more appropriate for the Member appraisal to be with the Chief Executive only so that a clear steer can be given and for the Chief Executive to then manage, lead and provide appraisals for his**

team as appropriate to deliver it. Therefore it is proposed that reference to Member involvement in the appraisals of the Deputy Chief Executive and the Corporate Director is to be removed from the Roles and Responsibilities of Members document at Part 5 of the Constitution.

### 3.4 Part 4 - Contract Procedure Rules

In May 2017 an Internal Audit on Contract Procedure Rule compliance provided a limited assurance opinion. One of the recommendations of that report was that additional forms be developed to record key elements of the procurement process (recommendation 3). In response to that Audit recommendation, 3 new approval forms have been developed and are attached and listed as follows and, if adopted, will be appended to the existing Contract Procedure Rules at Part 4 of the Constitution :-

- Appendix A – Approval for the use of a Framework Agreement (App H)
- Appendix B – Approval for Contract Award (App I)
- Appendix C – Approval to Extend a Contract (App J)

These forms are intended to be easy to complete so that their use is encouraged, however they will provide the required additional records for procurement processes to ensure compliance.

### 3.5 Part 4 - Financial Procedure Rules

As part of the Council's commercial project 'Timesage' it has been agreed to use a PayPal platform to take the payments and therefore the financial procedure rules need to be updated accordingly as this is the first time the Council has used PayPal to receive income transactions. Therefore the following new paragraphs are proposed for approval at Section 3 within the Financial Procedure Rules :-

#### Section 3 – Financial Systems and Procedures

##### 2. Income and Expenditure

###### *Key Controls*

*2.2(k) - set up and operation of a PayPal or World Pay account for the collection of income from specific website transactions within services shall require the approval of the Corporate Director, who shall establish appropriate procedures for their operation. Where applicable, the Corporate Director should nominate a separate PayPal administrator and certifying officer whose responsibility will entail reconciling the income received and charges levied via the PayPal account to amounts due and to the Council's financial system*

###### Responsibilities of Corporate Director

*2.7 - to authorise the setting up and controls to operate with regard to a PayPal account for the collection of income from specific website transactions within services as stated in the key controls above*

###### Responsibilities of Directors / Heads of Service

*2.20 - to request the Corporate Director to set up a PayPal account for their service if required and to nominate a PayPal administrator who will be responsible*

*for the operation of the account in line with the required procedures*

#### **4.0 POLICY AND CORPORATE IMPLICATIONS**

4.1 Due to the Constitution being a living document there are times when amendments are needed to enable the organisation to function efficiently. Therefore items will be referred to the Committee as required.

4.2 The regular reviews and updates to the Constitution and ensuring it is up to date on its decision-making processes supports the Council's priority for being an 'Agile Council'.

#### **5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS**

5.1 Any financial and resource implications will be met from existing resources.

#### **6.0 LEGAL IMPLICATIONS/POWERS**

6.1 Any change in legislation overrides the current wording of the Constitution and the Monitoring Officer has delegated authority to make amendments following legislative or other statutory changes and minor procedural and operational changes. Such changes will be reported to the Governance Committee and subsequently the Council, as soon as practicable thereafter.

#### **7.0 COMMUNITY SAFETY**

7.1 There are no community safety implications relating to this report.

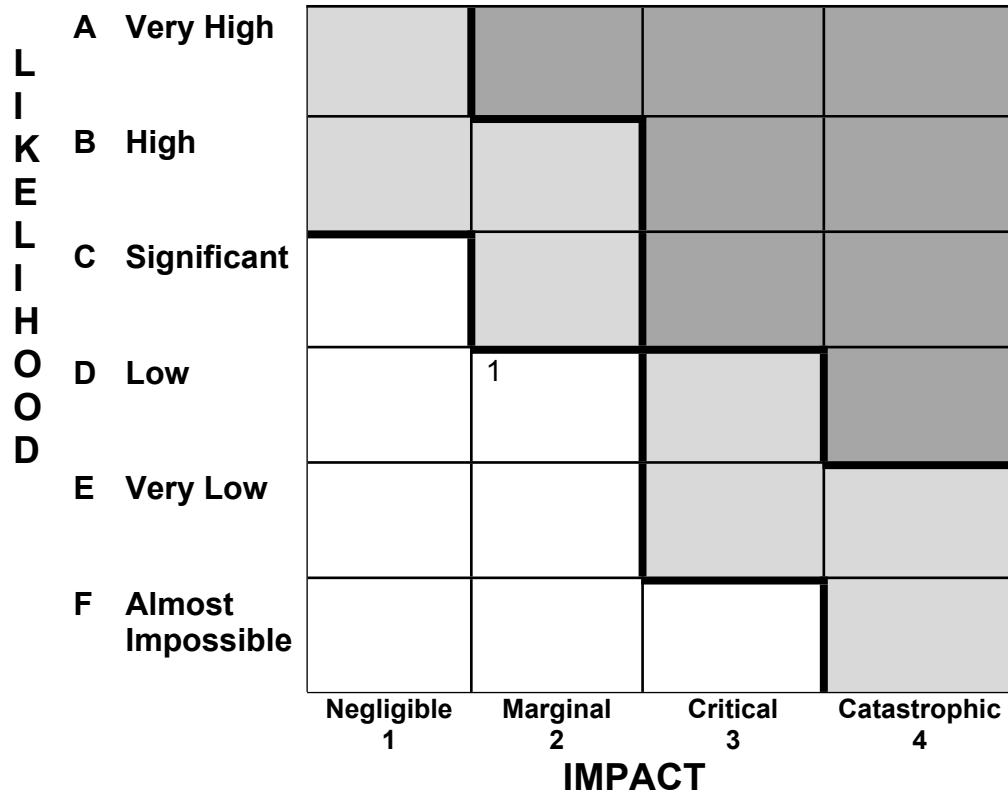
#### **8.0 EQUALITIES**

8.1 Equalities Screening Assessments have been drafted on the items within the report and most items presented relate to the legality of decision-making.

#### **9.0 RISKS**

9.1 The risks associated with report are considered to relate to following legal and constitutional procedures in decision-making.

9.2



Risk No	Risk Description
1	Decisions challenged due to appropriate processes not followed.

**10.0 CLIMATE CHANGE**

10.1 The Constitution is available on the Council’s website and is electronically available to Members and Officers to meet the Council’s corporate commitment to green targets.

**11.0 CONSULTATION**

11.1 There is regular internal consultation with Strategic Management Team and T3 to ensure the Constitution reflects the Council’s current responsibilities and arrangements.

**12.0 WARDS AFFECTED**

12.1 All wards are indirectly affected by this report.

Contact Officer: Keith Aubrey, Monitoring Officer/ Sarah Evans, Senior Democracy Officer  
Date: November 2017

Appendices : Appendix A – Approval for the use of a Framework Agreement  
Appendix B – Approval for Contract Award  
Appendix C – Approval to Extend a Contract

Background Papers: Management Restructure – Reports and Minutes of PFA Committee and Sub Committee

Reference : X : Committees\Governance\2017 18\211117\ Constitution Update 2017 18