

# GOVERNANCE COMMITTEE

6 FEBRUARY 2018

## 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) Contract Procedure Rules : EU Thresholds

To note that the Director for Corporate Services had exercised her delegation for a legislative amendment to the EU thresholds within the Contract Procedure Rules as set out at Appendix A and which came into effect from 1 January 2018 and will apply for two years.

(b) Substitute Policy amendment – recommendation from Policy, Finance and Administration Committee

Subject to approval of Agenda item 4, the Substitute Policy be amended with the tracked changes as set out at Appendix B.

(c) Part 3 – Scheme of Delegations to Officers – Head of Communities and Neighbourhoods

Following the departure of the Head of Communities and Neighbourhoods and the termination of the role in the Council's management structure on 11 February 2018, the Scheme of Delegations to Officers be amended as set out in tracked changes at Appendix C.

(d) Part 3 – Scheme of Delegations to Officers – Authorisation to act

The Officer Delegations be amended to state that the Director for Corporate Services is able to deputise and act for the Chief Executive and the Deputy Chief Executive.

(e) Part 3 – Scheme of Delegations to Officers – Debt Recovery

The Officer Delegations in respect of debt recovery be amended due to a change in policy for housing benefit overpayment. There is an addition to the existing delegation and a new delegation included as follows, changes shown in red :-

**‘To administer, formulate and amend the Council’s procedures to deal with debt recovery and Housing benefit overpayments and to take any action including the instigation of legal proceedings and the authorisation of officers to appear in court in connection therewith.**

**Any write off of Housing Benefit overpayments that are still within the Housing Benefit system will be dealt with in line with the Housing benefit overpayment policy’**

**(f) Management structure realignment – Consequential amendments to Parts 2, 3, 4, 5, 6, 7, 9 and 10**

**To note that the Monitoring Officer has exercised his delegation to make minor procedural and operational changes to Parts 2, 3, 4, 5, 6, 7, 9 and 10 of the Constitution with regard to Officer job title changes as a result of the Management structure realignment approved by the Full Council on 12 December 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 4 – Contract Procedure Rules**

Due to a change to the EU thresholds which were to be implemented by 1 January 2018 to note that the Director for Corporate Services had exercised her delegation for a legislative amendment to the EU thresholds within the Contract Procedure Rules as set out at Appendix A.

**3.4 Substitute Policy amendment – recommendation from Policy, Finance and Administration Committee**

Subject to approval of Agenda item 4 as follows the Substitute Policy be amended accordingly with the tracked changes as set out at Appendix B :-

*Policy, Finance and Administration Committee: 29 November 2017: Minute P41 Statutory Officers Disciplinary Procedure*

***RECOMMENDED* that the Governance Committee recommend to Council that its substitute policy be amended to reflect the restriction on a member of Policy,**

*Finance and Administration Committee from being a substitute on the Appeals Committee and visa versa. And that there is a requirement for members of the Policy, Finance and Administration Committee to undergo appropriate training prior to sitting as the Investigating and Disciplinary Committee.*

The reason for the above is to ensure that members of the Policy, Finance and Administration Committee are not appointed to the Appeals Committee as substitutes and vice versa so that when dealing with statutory officer disciplinary matters, members are able to act impartially and with no previous involvement in the issue. The recommendation also ensures that Members are trained before taking part as the Investigating and Disciplinary Committee.

3.5 Part 3 – Scheme of Delegations to Officers – Head of Communities and Neighbourhoods

Following the departure of the Head of Communities and Neighbourhoods and the termination of the role in the Council's management structure with effect from 11 February 2018, the Scheme of Delegations to Officers be amended as shown in tracked changes at Appendix C.

3.6 Part 3 – Scheme of Delegations to Officers – Authorisation to act

To assist the smooth running of the new management structure and ensure there is sufficient cover in place for day to day decisions, it is proposed that the Officer Delegations be amended for the Director for Corporate Services to deputise and act for the Chief Executive and the Deputy Chief Executive.

3.7 Part 3 – Scheme of Delegations to Officers – Debt Recovery

The officer delegations in respect of debt recovery be amended due to a change in policy for housing benefit overpayment. There is an addition to the existing delegation and a new delegation, proposed changes are highlighted in red :-

To administer, formulate and amend the Council's procedures to deal with debt recovery **and Housing benefit overpayments** and to take any action including the instigation of legal proceedings and the authorisation of officers to appear in court in connection therewith.

**Any write off of Housing Benefit overpayments that are still within the Housing Benefit system will be dealt with in line with the Housing benefit overpayment policy.**

3.8 Management Structure Realignment – Consequential amendments to Parts 2, 3 4, 5, 6, 7, 9 and 10

As a result of the management structure realignment approved at Full Council on 12 December 2017, the Monitoring Officer has exercised his delegation to make minor procedural and operational changes to the Constitution with regard to officer job title changes in Parts 2, 3, 4, 5, 6, 7, 9 and 10 to ensure these align with the new structure.

#### **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.

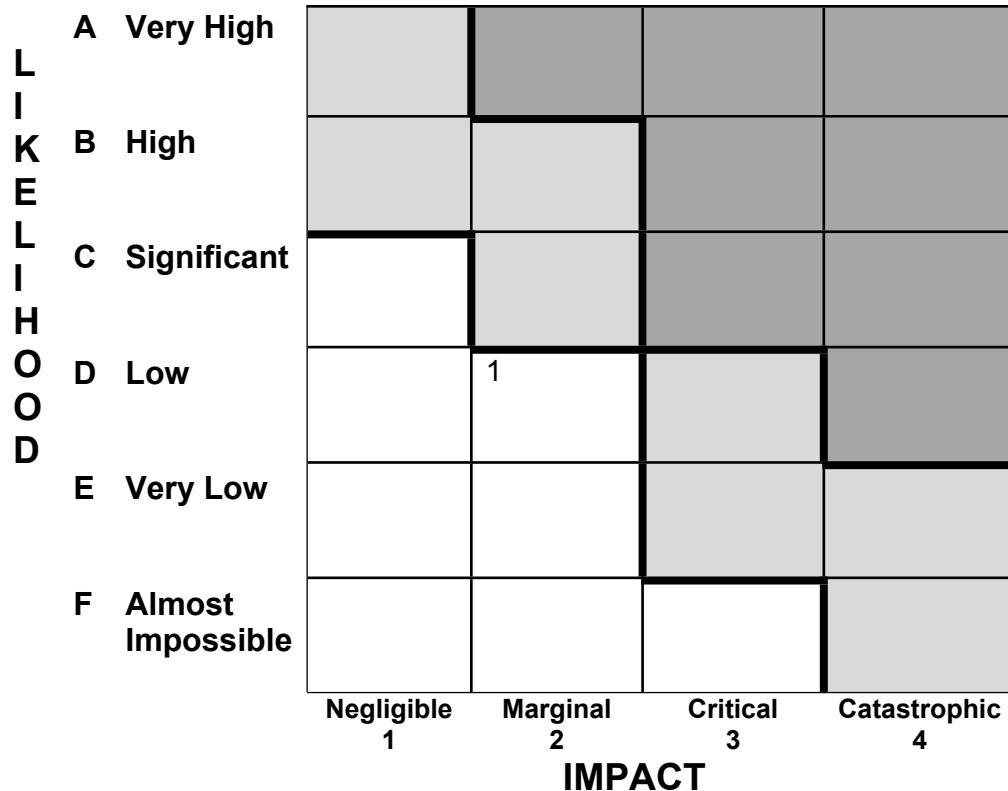
#### **8.0 EQUALITIES**

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:                            January 2018  
 Appendices :                Appendix A – Contract Procedure Rules – revised appendix with new EU thresholds  
                                       Appendix B – Substitute Policy  
                                       Appendix C – Scheme of Delegations to Officers

Background Papers:        Management Restructure – Reports and Minutes of PFA Committee and Sub Committee  
 Reference :                    X : Committees\Governance\2017 18\060218\ Constitution Update 2017 18