
Subject: REVIEW OF THE CONSTITUTION 2018 – FINANCIAL PROCEDURE RULES AND BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

Meeting and Date: Governance Committee – 28 June 2018
Council – 25 July 2018

Report of: David Randall, Director of Governance (Monitoring Officer)

Classification: UNRESTRICTED

Purpose of the report: To approve the proposed changes to the Financial Procedure Rules and Budget and Policy Framework Procedure Rules as detailed in the Appendices to and to incorporate them into the Council's Constitution, issue no. 21.

Recommendation:

Governance Committee: That it be recommend to Council that the proposed changes as part of the 2018/2019 Review of the Constitution relating to Part 4 – Financial Procedure Rules and Budget and Policy Framework Procedure Rules as detailed at section 2 of this report be approved and incorporated into the Council's Constitution, issue no. 21.

The Director of Governance and Monitoring Officer is authorised to make any associated incidental changes to the Constitution.

Council: That the proposed changes as part of the 2018/2019 Review of the Constitution relating to Part 4 – Financial Procedure Rules and Budget and Policy Framework Procedure Rules as detailed at section 2 of this report be approved and incorporated into the Council's Constitution, issue no. 21.

The Director of Governance and Monitoring Officer is authorised to make any associated incidental changes to the Constitution.

1. Introduction and Background

1.1 Article 15 of the Council's Constitution makes provision for the regular review of the Constitution by the Monitoring Officer on an annual and ad-hoc basis. As part of the 2018/19 review, changes are proposed to the:

- (a) Financial Procedure Rules – a new set of procedure rules replace the existing rules.
- (b) Budget and Policy Framework Procedure Rules – revisions to the existing rules.

2. Proposed Changes

2.1 In 2000 the (then) Department of the Environment Transport and the Regions issued guidance on the content and operation of new council constitutions required under The Local Government Act 2000: This was published under the title "Local Government Act 2000: Guidance to English Local Authorities. From this the current Financial Procedure Rules were developed and incorporated as part of a new constitution adopted by the Council, with effect from 1 April 2002. Although changes have been incorporated over the years to reflect changing legislation and

procedures, the Financial Procedure Rules haven't been fully reviewed for nearly 16 years.

- 2.2 The guidance provided in 2000 has not been revised since 2002. In a number of instances it is out of date and has been superceded by later legislation. In addition, a number of the practices in the current Financial Procedure Rules are hardly ever used, especially relating to cash based transactions, whilst other accounting practices have changed or been modified to accord with financial reporting standards. The Financial Procedure Rules also duplicate quite a large amount of information that is found elsewhere in the constitution, meaning that unless carefully cross referenced there is a risk of the information becoming out of date.
- 2.3 Therefore the Financial Procedure Rules have been completely redesigned, retaining the key relevant aspects of the current rules, (such as budgetary control, virements)., They have been updated to reflect the latest legislation and changes in accounting practice and have been simplified to remove information that doesn't relate to financial procedures.
- 2.4 As a result of the changes made to the Financial Procedure Rules, it has been necessary to make amendments to the Budget and Policy Framework Procedure Rules to reflect both the way in which the law has developed and the operational practices and procedures of the Council.
- 2.5 Parts of the guidance are designated as 'statutory guidance'. This has been interpreted by the courts as meaning that those to whom such guidance is directed are required to follow it, unless there is good reason for not doing so. It is not considered that the proposed changes involve a departure from the statutory guidance.

3. Approval of Amendments to the Constitution

- 3.1 The detail of the proposed changes are set out below:
 - (a) Financial Procedure Rules. Replace the current rules with a completely new version as at Appendix 1.
 - (b) Budget and Policy Framework Procedure Rules. Replace with the revised version as at Appendix 2.

4. Identification of Options

- 4.1 Option 1 - To approve the changes proposed as part of the 2018/19 review of the constitution as submitted.
- 4.2 Option 2 – To not approve the changes as part of the 2018/19 review of the constitution as submitted.
- 4.3 Option 3 – To request that the Director of Governance and Monitoring Officer amend the Financial Procedure Rules and Budget and Policy Framework Procedure Rules in some other way

5. Evaluation of Options

- 5.1 Option 1 is the preferred option. A detailed review of the Financial Procedure Rules has been undertaken by the Director of Governance and Monitoring Officer supported by the Head of Finance, Solicitor to the Council and Democratic Services Manager. This has involved researching best practice, reviewing the relevant legislation and case law and then developing a set of procedures that are accessible

and useful, especially for the accountancy team. Following this work, a careful review of the Budget and Policy Framework Procedure Rules was undertaken to ensure consistency.

- 5.2 Option 2 is not the preferred option as it will mean that the Council continues to have in place procedure rules that are now becoming out of date and as a result are not referred to, with work arounds being introduced.
- 5.3 Option 3 is a possible way forward, although it will be difficult for the Governance Committee or the Council to make any significant changes to the proposals at their meeting. Should members be minded to pursue this option, it would be helpful if they could discuss with the Director of Governance and Monitoring Officer their proposal to enable a further or amended report to be presented to a future meeting of the Governance Committee and the Council.

6. **Resource Implications**

There are no budget implication arising from this proposal, however some training will be required for relevant staff on the new procedure rules. This training will be provided in house by the Finance team.

7. **Corporate Implications**

- 7.1 Comment from the Section 151 Officer: No further comments to add. (HL)
- 7.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.

8. **Attachments**

Appendix 1 – Part 4, New Financial Procedure Rules

Appendix 2 – Part 4, Revised Budget and Policy Framework Procedure Rules

9. **Background Papers**

Draft Constitution of the Council (Version 21).

Local Government Act 2000 and the regulations made under that Act.

<https://www.legislation.gov.uk/ukpga/2000/22/contents>

DETR Publication: “Local Government Act 2000: Guidance to English Local Authorities”

<http://webarchive.nationalarchives.gov.uk/20120920053721/http://www.communities.gov.uk/documents/localgovernment/pdf/155181.pdf>

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