

	<b>Governance and Ethics Committee</b> 9 July 2021
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<b>Report title</b>	Changes to the Constitution	
<b>Cabinet Member with lead responsibility</b>	Councillor Paula Brookfield Cabinet Member for Governance and Equalities	
<b>Wards affected</b>	All Wards	
<b>Accountable director</b>	David Pattison, Director of Governance	
<b>Originating service</b>	Governance	
<b>Accountable employee</b>	David Pattison	Director of Governance
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<b>Report to be considered by</b>	Council	21 July 2021

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### Recommendations for decision:

The Governance and Ethics Committee recommends that Council:

1. Approves the amendments to the Constitution as detailed in Appendix 1 to this report.
2. Authorises the Monitoring Officer to implement the changes.

## 1.0 Purpose

- 1.1 This report outlines the changes made to the constitution for approval by the Council. It is recommended that the Council agrees to the amendments to the Council's Constitution to ensure continuing lawfulness and effectiveness.

## 2.0 Background

- 2.1 The Governance Committee regularly receives reports seeking to update the Constitution where it is necessary, the last such report was on 23 April 2021.
- 2.2 The changes being brought forward is following a full review of the Constitution.
- 2.3 The Constitution has been reviewed in totality and remodelled based on the model produced for local authorities by a national firm of solicitors, Bond Dickinson model. This is to ensure the constitution is clear and concise and that the decision-making processes can be followed by all.
- 2.4 Only those parts of the constitution listed below are amended, the other parts will remain unchanged.
- 2.5 This is the second of a series of reports – there will be additional reports brought forwards to review the other parts of the constitution at future meetings including the one in September. This is an ongoing process and important that this takes place as and when the changes are needed and does not wait for the annual review.
- 2.6 The next set of changes that will be brought forward will be a full review of the Part 3 Employee Delegations and changes to the Overview and Scrutiny Rules.

## 3.0 Changes to the Constitution

- 3.1 The table below details the Articles/Sections to be changed:

Section	Proposed	Rational
Part 3 – HR Delegations	<ul style="list-style-type: none"><li>• Change delegation for appointments below Senior Management to below Director appointments.</li><li>• Change delegation for dismissing employees below Senior management to excluding statutory officers only</li><li>• Amend delegations to Head of Human Resources to Deputy Director of People and Change.</li><li>• Change delegations for employee grievances to exclude statutory officers</li></ul>	<ul style="list-style-type: none"><li>• To align with the Employee Employment Procedure rules and appointment of Chief Officers</li><li>• Dismissals of statutory officers to align to JNC terms and conditions</li><li>• Changes to organisation structure</li><li>• Grievances for statutory officers to align to JNC terms and conditions</li></ul>

Section	Proposed	Rational
Part 4 – Finance Procedure Rules	Change name of Procurement Procedure Rules to Contract Procedure Rules (throughout the document)	Update to title of procedure rules
	Status of the Financial Procedure Rules – point 10 (updated) point 11(deleted)	Point 11 incorporated into point 10
	1.2 Budget and Expenditure - Point 3 –Grant payments - change from approval process from Cabinet (Resources) Panel to approval by the Cabinet Member for Resources and relevant Cabinet Member in consultation with Director of Finance and relevant Director	To ensure grants can be made in a timely and effective manner. Currently if this is not specified in the budget then approval is required by CRP.
	Budget Monitoring point 8 – change requirements to report variances in budget monitoring to ‘excess of 1% or £100,000 whichever is the highest. unless the Section 151 Officer requires an explanation’	Use of % would allow for greater clarity and meaningful explanations on variations in CRP/ Cabinet reports. The Section 151 Officer will still be able to be able to ensure variations, regardless of amount are explained if deemed appropriate.
	Outturn – point 2 rewording on point	Rewording of point
	Virements – point 1g	To be consistent with change 1.2 - proposed amendment to grants
	Virement responsibilities – point 6	To be consistent with change 1.2 - proposed amendment to grants
	Supplementary budgets – points 2 & 3 change approval from CRP / Cabinet to Cabinet Member for Resources, and relevant Cabinet Member in consultation with Director of Finance and Monitoring Officer where there is no increase / decrease in the council budget, new / additional income has been identified, such income has conditions attached by the person providing the income that constrain its possible range of use and the Section 151 Officer agrees that approval can be granted in this way.	This delegation would allow grants to be accepted and committed in a timely and effective manner. Some conditions of grant require the grant to be allocated / spent in a short period of time. Supplementary budgets built in under this delegation will be listed in the quarterly monitoring report to CRP for information.
	Payment of Grants to an Outside Org – point 2	To be consistent with change in 1.2 on grants

Section	Proposed	Rational
	Fees and charges – amend that CRP approve the strategy for setting fees and charges. The actual setting of individual service fees and charges to be delegate to the relevant Cabinet Member, Cabinet Member for Resources in consultation with the Director of Finance and relevant Director.	<p>This proposal would allow services to respond to changes in fees and charges in a more timely and effective manner. It is proposed that CRP be responsible for approving the strategy, whilst changes to actual fees/ charges is delegated to the relevant cabinet member.</p> <p>Previously all fees and charges were reported to CRP for approval, over the years, the approach has changed, in reset years, core fees and charges have been submitted to CRP with delegated approval to set other / supplementary fees and charges.</p>
	Grants – point 1 - apply for, or accept	To provide clarity on the process – Section 151 Officer should also approve the acceptance of grants
	Grants point 2	To be consistent with change 1.2 - proposed amendment to grants
	Grants point 4 new – banking / Strategic Finance to be notified of any incoming sums	To provide clarity on current process
	Treasury Management and Financing – point 5 new – Section 151 Officer in consultation with the Director of Governance shall approve any lending – including other organisations.	To provide clarity on the process on lending to other organisations
	Treasury Management and Financing – point 12	To provide clarify on the current arrangements - Scrutiny of TM strategy is undertaken by Scrutiny Panel
	Bad Debt Write offs – point 1	Update Strategy title
	1.3 Internal Audit- point 1	Update title of standards
	1.4 – Official Orders – point 3 and 6	To clarify this function is delegated by the Section 151 officer to their nominated delegate
	1.4 Official orders – point 8 and 9 new	To provide clarify on the role of budget managers
	Payment of Accounts - point 3	Update job title

Section	Proposed	Rational
	1.9 Income and Debt Recovery – point 4 and 6 new	To provide clarify on the role of budget managers
	1.9 Income and Debt Recovery – point 13	To provide clarity on repayment terms for invoices
	1.9 Income and Debt Recovery- point 16 – new	To confirm that the determination of late payment fees is delegated to the Section 151 Officer
	1.14 – Schedule of Responsibilities – Council - delete last point – have the authority to disallow virements to / from budget headings	It is proposed to delete - virements over £50k reported to CRP – under £50k delegated to Section 151 Officer
	1.14 – Schedule of Responsibilities – Cabinet – deletion of – Approve the establishment or disestablishment of provisions and reserves shall be established or dissolved	Added to CRP responsibilities
	1.14 – Schedule of Responsibilities – Cabinet - have the authority to disallow virements to / from budget headings	It is proposed to delete this- virements over £50k reported to CRP – under £50k delegated to Section 151 Officer
	1.14 – Schedule of Responsibilities – CRP – deletion of receive notification of virements approved by employees	Only virement above £50k are reported to CRP
	1.14 – Schedule of Responsibilities – CRP – amendment to fees and charges responsibilities Deletion of approve deviations for the council' standard approach to calculating fees and charges	In line with proposed change that CRP approve the strategy on fees and charges. Changes to fees and charges delegated
	1.14 – Schedule of Responsibilities – CRP added – Approve the establishment or disestablishment of provisions and reserves shall be established or dissolved	Move from cabinet responsibilities
	1.14 - Schedule of Responsibilities – CRP - deletion of authority to approve the payment of grants to individual recipients, where certain conditions apply	In line with changes to grant payments
	1.14 – Schedule of Responsibilities – Scrutiny – added role in TM strategy	Included role in scrutinising the TM strategy
	1.14 – Schedule of Responsibilities – Director of Finance - added approve the minimum value for the issue of	To provide clarity / be consistent with current responsibilities

Section	Proposed	Rational
	invoices and payment reminders and approve late payment fee	
	1.14 – Schedule of Responsibilities – Head of HR – change to Deputy Director of People and Change	To reflect current structure
	1.14 - Schedule of Responsibilities – Head of HR – deletion of financial, procurement and payroll systems	Update to reflect responsibilities
	1.14 – Schedule of Responsibilities – Directors – new – list of employees authorised to certify claims from petty cash together with specimen signatures	Update to clarify / reflect responsibilities
	1.14 – Schedule of Responsibilities – Budget Manager – add – section 151 officer (or his / her delegate)	Update to clarify / reflect responsibilities
	1.14 – Schedule of Responsibilities – Budget Manager – add notifying banking / SF on incoming sums	Update to clarify / reflect responsibilities
	1.14 – Schedule of Responsibilities – Budget Manager – add – ensure maintenance of open and finished orders	Update to clarify / reflect responsibilities
	1.14 – Schedule of Responsibilities – Budget Manager – add – ensure invoice payments comply with Public Contract Regs	Update to clarify / reflect responsibilities
	1.14 – Schedule of Responsibilities – Budget Manager – add – comply with current policy and procedures for use of purchasing cards	Update to clarify / reflect responsibilities
	1.14 – Schedule of Responsibilities – Budget Manager – add – monitor the recovery of income due in respect of invoices raised	Update to clarify / reflect responsibilities
	1.14 – Schedule of Responsibilities – Head of Revs and Bens – additions – Approve discretionary rates relief applications / discretionary council tax reductions, agree prepayment arrangements for income owed, ensure compliance with financial systems	To ensure decisions can be made in a timely manner. Approval is currently sought through an IEDN.

Section	Proposed	Rational
	1.14 – Schedule of Responsibilities – Head of the Hub – new section added to reflect current structure and responsibilities	New section added to reflect current structure and responsibilities
	1.14 – Schedule of Responsibilities – Head of Procurement – updated strategy title. Amendment to systems Head of Service is responsible for.	Updated to clarify / reflect responsibilities
	Schedule of Financial Limits – Budget Monitoring to CRP – minimum limit on variations	Amended to reflect proposed changed under virements section
	Schedule of Financial Limits – Payment Approval Deputy Director / Director – increase from up to £150,000 to up to £500,001 and over Head of Service amend – increase to from up to £150,000 to up to £500,000	To reflect change in management structure and reflect responsibility of Heads of Service
Part 4 – Employee Employment Procedure Rules	<ul style="list-style-type: none"> <li>Amend to reflect current organisation structure and job titles</li> <li>Inclusion of employment of Deputy Directors</li> <li>Inclusion of procedure rules pertaining to Director of Public Health</li> <li>Dismissal and grievance procedures pertaining to statutory officers amended to reference JNC Chief Executive Handbook model policies</li> </ul>	<ul style="list-style-type: none"> <li>Align to current structure and job titles</li> <li>Reference dismissal and grievance procedures in JNC Chief Executive handbook</li> </ul>
Part 5 – Code of Conduct Employees	<ul style="list-style-type: none"> <li>Amend Head of Human Resources to Deputy Director of People and Change</li> <li>Amend Equality section 11</li> <li>Amend Whistle Blowing section 18 to include Safe Space</li> </ul>	<ul style="list-style-type: none"> <li>Changes to organisation structure</li> <li>Refreshed equality section</li> <li>Introduction of Safe Space for employees to raise concerns of wrongdoing</li> </ul>

## 4.0 Financial implications

- 4.1 The financial procedures rules have been updated as detailed in section 3 of this report.  
[AS/07072021/T]

## **5.0 Legal implications**

- 5.1 The Council is required by Section 37 of the Local Government Act 2000 to prepare and publish a Constitution which contains its standing orders relating to decision-making, finance and contracts. The Council is also required to keep its Constitution updated. The Director of Governance is authorised under the constitution to make amendments which more accurately reflect legislative and organisational changes. This report ensures that the Council meets its duties. [DP/21042021/A]

## **6.0 Equalities implications**

- 6.1 The Council must, in the exercise of its functions, have due regard to the need to:
- a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;
  - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 6.2 The Constitution seeks to ensure that, in its decision-making and its operations, the Council fully complies with the public-sector equality duty.

## **7.0 Any other implications**

- 7.1 There are no other implications arising from recommendations in this report.

## **8.0 Schedule of background papers**

- 8.1 Changes to the Constitution, Governance Committee, 23 April 2021

## **9.0 Appendices**

- 9.1 Appendix 1 – Revised Constitution