

**CABINET – 14TH MARCH 2019**

**Report of the Monitoring Officer  
Lead Member: Councillor James Poland**

**Part A**

ITEM            ANNUAL REVIEW OF THE COUNCIL'S CONSTITUTION

Purpose of Report

To enable the Cabinet to consider and recommend to Council amendments to the Constitution following the annual review.

Recommendation

**That it be recommended to Council** that the changes to the Constitution set out in appendix 1 to this report be made, to be effective from 6th May 2019.

Reason

To ensure the Constitution is kept up to date and fulfils its intended purposes.

Policy Justification and Previous Decisions

Section 2.4 of the Constitution requires the Monitoring Officer to monitor and review the Constitution. These reviews are undertaken annually with the last such review being considered by the Cabinet on 12th April 2018 (Item 14, minute 124 refers) and Council on 30th April 2018 (Item 6.2, minute 96.2 refers).

The Member Conduct Committee reviewed the procedures for dealing with member conduct complaints and other elements of the Constitution relating to Planning Code of Good Practice and parts of the Constitution (including the Members' Code of Conduct) that relate to the roles of the Committee at its meeting on 3rd December 2018 (Item 6, minute 12 refers). The issues identified by the Committee in respect of the Planning Code of Good Practice are described in Part B of this report.

Implementation Timetable including Future Decisions and Scrutiny

The proposed changes to the Constitution require Council approval and would be submitted to Council on 25th March 2019. Changes will come into effect from 6<sup>th</sup> May 2019 to accord with the 4 yearly Borough elections.

A small number of potential changes to the Executive delegations to officers have been identified during this year's review. These will be the subject of a

separate report to the Leader, who has the authority to make changes to them. Any changes made will be reported to Council.

### Report Implications

The following implications have been identified for this report.

#### *Financial Implications*

There are no costs associated with making the recommended changes to the Constitution.

#### *Risk Management*

No specific risks have been identified in connection with this report.

Key Decision: No

Background Papers: Member Conduct Committee, 3rd December 2018  
(Item 6, minute 12 refers)  
<https://charnwood.moderngov.co.uk/ieListDocuments.aspx?CId=146&MId=192&Ver=4>

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## Part B

### Background

1. In line with good practice, the Council reviews the Constitution annually. As part of the review consultations have taken place with officers and councillors both individually and through meetings with Group Leaders and the Chair of the Plans Committee, and of the Member Conduct Committee. The remainder of this report describes the recommended changes to the Constitution and the proposed amendments are set out in appendix 1 to the report.

### Proposed changes to the Constitution

#### Monitoring Officer Protocol

2. Chapter 23 of the Constitution relates to the Monitoring Officer Protocol. Section 2 of the protocol specifically explains the arrangements between the Monitoring Officer, colleagues and Councillors and is designed to help ensure the effective discharge of their functions. Point (g) in Section 2 states:
3. *'The Monitoring Officer will, where appropriate, make enquiries into allegations of misconduct in the absence of a written complaint being received and if appropriate will make a written report to the Member Conduct Committee unless the Monitoring Officer considers a report is not warranted'.*
4. A Councillor has suggested that section 2 (g) of the Monitoring Officer Protocol in Chapter 23 of the Constitution be deleted.
5. The Member Conduct Committee on 3rd December 2018 (Item 6, minute 12 refers) considered this matter and recommended that section (g) of the Monitoring Officer protocol in Chapter 23 of the constitution be deleted as part of the annual Constitutional review by full Council.
6. In considering whether to remove point (g) as above, the Member Conduct Committee considered whether the removal could inhibit officers from raising concerns, through fear of intimidation or harassment if the only option was to make a complaint in writing. However, the Committee were satisfied that measures were already in place elsewhere in the Constitution which would safeguard officers in relation to members and noted that paragraph 27 of the Member: Officer Protocol in Chapter 22 stated:
7. *If an officer had cause to complain about the conduct of a member they may make a complaint to the Monitoring Officer if they consider that the conduct involves a breach of the Members' Code of Conduct. If an Officer*

*considers that the conduct does not involve a breach of the Code of Conduct but is in breach of this Protocol or other Council codes and protocols, they should make their complaint, preferably in writing, to the Monitoring Officer. The Monitoring Officer will deal with the complaint in accordance with the procedure for non-Code of Conduct complaints*

8. In addition, when the Member Conduct Committee considered this matter, they were informed that a brief review of the Monitoring Officer Protocols of other local authorities suggests that whilst some authorities include a similar section relating to the Monitoring Officer being able to deal with concerns or allegations about Members' conduct in the absence of a written complaint, the majority do not appear to have such a provision.
9. Therefore, it is proposed that section 2 (g) of the Monitoring Officer Protocol in Chapter 23 of the Constitution be deleted, and that this matter be carefully monitored.

#### Training requirements - Audit, Licensing and Personnel Committee

10. In November 2018, the Member Development Reference Group considered the draft Member Induction programme and requested that further consideration be given the training requirements of members of the Audit, Licensing and Personnel Committees.
11. Accordingly, this matter was referred to the Member Conduct Committee on 3rd December 2018 (Item 6, minute 12 refers) who considered it prudent to strengthen the training requirements for members who sat on the Audit, Licensing and Personnel Committees to ensure members were up to date with the relevant and latest rules and regulations.
12. The Committee was of the opinion that new members of each committee must attend mandatory training or its equivalent in the current Council term to be eligible. Also, with respect to Audit and Personnel Committee members, other councillors can substitute for members of the relevant committee who are absent using procedures set out in the Committee Procedures but in order to be eligible to participate in meetings the member must have attended the mandatory training, or its equivalent, in the current Council term.
13. Therefore, it is proposed that changes be made to section 5.5 (b) (c) and (e) in Chapter 5 of the Constitution to strengthen the training requirements of members sitting on these Committees.

#### Planning Code of Good Practice and Speakers at Plans Committee

14. The Planning Code of Good Practice was reviewed by the Member Conduct Committee on 3rd December 2018 (Item 7, minute 13 refers) and no changes were recommended.

15. Whilst considering the Planning Code of Good Practice, members of the Committee considered that Plans Committee members having the opportunity to ask additional questions of speakers at Plans Committee was of value to the decision-making process and recommended that the Democratic Services Manager (Deputy Monitoring Officer) investigated procedures of other local authorities and included the matter in the annual review of the Constitution.
16. A review has been undertaken and established a mixture of procedures and practices. Some Councils allow Plans Committee members to ask questions of objectors or agents/applicants, and others do not allow explaining that it may increase the risk of individuals being pressurised and put on the spot. There was also a consensus that the Chair is the best person to ensure that questions are factual points of clarification.
17. Currently the Constitution states that the "Chair of the Plans Committee may ask speakers or officers to provide clarification on any points that are raised by speakers".
18. The Head of Planning and Regeneration and the Chair of the Plans Committee have been consulted on this matter and they believe the wording in the Constitution is satisfactory and reduces the risk of members of the Committee potentially straying into cross-examining speakers, engaging debate or challenging points of view put forward.
19. Therefore, no change is recommended on this point.

#### Single Cabinet Member Decisions

20. Section 9E of the Local Government Act 2000 (as amended) ('the 2000 Act') gives authority to the Leader of the Council to arrange for Executive functions to be discharged by:
  - himself or herself;
  - the Cabinet;
  - another member of the Cabinet;
  - a committee of the Cabinet;
  - an area committee, or
  - an officer of the Council
21. In October 2018, the Leader gave authority for the Lead Member for Communities, Safety and Wellbeing to make decisions on grant awards under the Member Grants scheme where a councillor has a personal interest that might lead to bias in relation to the matter, except in cases where the Lead Member for Communities, Safety and Wellbeing has a personal interest that might lead to bias in relation to the matter.
22. Section 10.9 of the Constitution states that 'the rules applying to executive decisions taken by them [single members] shall be the same as those applying to decisions by the Cabinet as a whole'.

23. In practice this means that Cabinet Lead Member decision meetings need to be arranged, often for one item of business only, and the meeting will last only a few minutes. From October 2018 to January 2019 there have been five such meetings set up.
24. In law, the Council only needs to publish the details of the decision (including any report) after the decision has been taken. As long as this requirement is fulfilled, then the need for a Cabinet Lead Member decision meeting is not required. This practice is adopted by many other local authorities without taking away the transparency of decision making.
25. It is therefore proposed that section 10.9 of Chapter 10 of the Constitution to be amended to enable Cabinet Lead Member decisions to be taken without the need to hold a public meeting. In addition, the reference in section 4.5 of Chapter 4 of the Constitution needs to be amended to delete the sentence "There are currently no delegations to single Cabinet members", and include reference to the one single Member decision currently delegated by the Leader.

#### Financial Regulations

26. The newly appointed Head of Finance and Property Services has reviewed the Financial Regulations set out in Chapter 16 of the Constitution and suggested some minor re-wordings to parts of the Chapter in order to improve clarity.
27. In addition, there is now a requirement for the Council to prepare a Capital Strategy annually which needs approving by Council at the same time as the Treasury Management Strategy.
28. Therefore, it is proposed that section 16.5 (m) of Chapter 16 be amended to reflect this new requirement.

#### Webcasting, Filming and Recording of Meetings

29. Under the Openness of Local Government Bodies Regulations 2014 other people may film, tweet or blog from Council and Committee meetings.
30. Similarly, under the Local authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (as amended) other people may film, tweet or blog from Cabinet meetings
31. At the recent refresher training session about Council Meeting Procedures, concerns were raised about members of the public and indeed Councillors potentially becoming disruptive whilst filming and recording meetings.
32. To address these concerns, it is therefore proposed that section 9.18 (a) of Chapter 9 be strengthened to include reference to filming and recording of meetings.

### Licensing Committee

33. Chapter 5 of the Constitution sets out the roles and functions of decision-making committees.
34. Recently a Licensing Sub-Committee was set up to consider whether a private hire operator was fit and proper. Currently in the Constitution there is no distinction between private hire operators and hackney carriage or private hire vehicle licensees.
35. It is therefore proposed that section 5.5 (c) of Chapter 5 of the Constitution be amended to draw out the distinction.

### Personnel Committee

36. Chapter 5 of the Constitution sets out the roles and functions of decision-making committees.
37. The Personnel Committee appoints panels for various functions. Recently it was highlighted that function 7 “To undertake the Chief Executives Performance and Development Review” was omitted from the list of functions that could be undertaken by a panel when it is the Committee’s intention that this should be the case.
38. It is therefore proposed that section 5.5 (e) of the Constitution be amended to add in this function to the list of functions that could be undertaken by a Panel.

### Scheme of Delegation to Officers - Council Functions

39. The Head of Planning and Regeneration has reviewed the Scheme of Delegation to Officers and identified the following changes that fall under the Council functions:

#### Development Control

40. Under the scheme of delegation to officers in part 1(v) of the Constitution, the following exception to the delegation to the Head of Planning and Regeneration to determine planning applications is set out in the Constitution:  
  
(v) the application is submitted by a serving member of the Council, a person who has served as a member of the council at any time during the four-year period prior to the submission of the application, a serving officer of the Council or a person who served as an officer of the council at any time during the two-year period prior to the submission of the application.

41. The Development Control team do not have access to information about how long-ago individuals worked for/served on the Council. The current national planning application form only requires applicants and the agent to self-declare if they are:

- (a) A member of staff
- (b) An elected member
- (c) Related to a member of staff
- (d) Related to an elected member

42. This presents a risk to the Council in determining planning applications. Therefore, in line with current national application form, it is proposed that this delegation be amended to apply only to serving members of staff and members of the Council

#### Time limits for implementing planning permissions

43. Under the scheme of delegation to officers in part 2a of the Constitution, delegated authority is afforded to the Head of Planning and Regeneration in section 8.2:

- 3. To agree extensions to the time limits for implementing planning permissions where no demonstrable harm would be caused to an interest of acknowledged importance.

44. This type of planning application no longer exists and so this provision in the Constitution can be removed. This will require consequential renumbering of the Constitution

#### Changes occasioned by changes to the General Permitted Development Order (GDPO) 2015

45. There have been a series of technical amendments made by Government to the arrangements for dealing with minor planning matters (considered under the Town and Country Planning (General Permitted Development) (England) Order 2015) [the 'GPDO'], which relate to Environmental Impact Assessments, whether notice should be given to the local planning authority before development can commence and if prior approval for development proposals are required.

46. Under the scheme of delegation to officers in part 2a of the Constitution, delegated authority is afforded to the Head of Planning and Regeneration in section 8.2:

15. To respond to applications for determinations under parts 6, 7, 24 and 31 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 1995.

16. To respond to applications made under the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015.

47. These provisions relate to permitted development rights that are subject to prior notification and/or prior approval by the local planning authority. These are now out of date and need to be amended to reflect the latest legislative position and enable effective decision making in the local planning authority.

48. It is proposed to simplify the text by merging the two provisions together and providing new text that acknowledges the Order is subject to periodic update. This will require consequential renumbering of the constitution.

#### Hedgerow Retention Notices

49. In addition, the scheme of delegation at paragraph 33 delegated the following powers to the Head of Planning and Regeneration:

33. To serve hedgerow retention notices in consultation with the Chair of Plans Committee.

50. The Hedgerow Regulations 1997 specify the circumstances where hedgerows considered to be important are to be protected and the process by which landowners can apply to remove them using a 'hedgerow removal notice'. The Council must respond within a set period of time if they consider the hedgerow should be retained by using a 'Hedgerow retention notice'. Where Hedgerows have been removed unlawfully the Council may give notice to the owner to replace the hedgerow using an 'hedgerow replacement notice'. Therefore, it is proposed to amend part 33 of the Constitution to add this provision to the delegated authority of the Head of Planning and Regeneration.

#### Minor word changes

51. The Head of Planning and Regeneration has also suggested several minor wording changes which are set out in Appendix 1.

#### Key Decision Definition

52. Chapter 13, section 13.6 of the Constitution sets out the definition of a key decision:

*"A key decision is an Executive decision which is likely:*

- *to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates, or*
- *to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Borough.*

*The Council has developed the following guidance for what constitutes a key decision. A key decision is one which:*

- *commits the Council to expenditure, savings or increases or reductions in income of £100,000 or more in any financial year;*
- *makes proposals in relation to the budget or the policy framework under Budget and Policy Framework Procedure 14.2(a), or*
- *will result in the closure of any facility from which Borough Council services are provided or a reduction by more than 10% in the level of a discrete service provided.*

*In other cases, the impact of the decision will be considered in terms of the strategic nature of the decision, the effect on the amenity of the community or quality of service provided by the Council to a significant number of people living or working in the locality affected, the size of the area affected and the likely public interest in the decision”.*

53. The £100,000 threshold was set in 2000 when the new Executive arrangements were introduced. A review of other local authority's key decision thresholds strongly supports an increase to reflect inflationary and other price increases.
54. Therefore, it is proposed that section 13.6 of Chapter 13 of the Constitution be amended to increase the threshold to £150,000.

## APPENDIX 1

### PROPOSED CHANGES TO THE CONSTITUTION

#### Item 1 – Monitoring Officer Protocol

*It is proposed that the following change be made to Chapter 23, section 2 (g) of the Monitoring Officer Protocol, with deleted text shown as struck through:*

~~'The Monitoring Officer will, where appropriate, make enquiries into allegations of misconduct in the absence of a written complaint being received and if appropriate will make a written report to the Member Conduct Committee unless the Monitoring Officer considers a report is not warranted'.~~

#### Item 2 – Training requirements - Audit, Licensing and Personnel Committee

It is proposed that the following changes be made to Chapter 5, 5.5 (b) (c) and (e) with added text shown in bold and underlined.

##### (b) Audit Committee

'Members cannot participate in Audit Committee meetings unless they have attended the appropriate training prescribed by the Head of Strategic Support.

**Members of the Audit Committee must attend the mandatory training, or its equivalent, at the start of each Council term to maintain their eligibility.**

**Other councillors are allowed to substitute for members of the Audit Committee who are absent using procedures set out in the Committee Procedures. In order to maintain eligibility to participate in meetings a councillor must have attended mandatory training, or its equivalent, in the current Council term'.**

##### (c) Licensing Committee

'Members cannot participate in Licensing Committee or Sub-committee meetings unless they have attended the appropriate training on relevant licensing matters prescribed by the Head of Strategic Support.

**Members of the Licensing Committee must attend the mandatory training, or its equivalent, at the start of each Council term to maintain their eligibility.**

(e) Personnel Committee and Panels

'Members cannot participate in Personnel Committee and Panel meetings: unless they have attended the appropriate training on relevant personnel matters prescribed by the Head of Strategic Support; or they have had previous substantial involvement in the matter under consideration.

**Members of the Personnel Committee must attend the mandatory training, or its equivalent, at the start of each Council term to maintain their eligibility.**

**Other councillors are allowed to substitute for members of the Personnel Committee who are absent using procedures set out in the Committee Procedures. In order to maintain eligibility to participate in meetings a councillor must have attended mandatory training, or its equivalent, in the current Council term'.**

**Item 3 – Single Cabinet Member Decisions**

It is proposed that the following changes be made to 10.9 of Chapter 10 with added text shown in bold and underlined and deleted text shown as struck through:

'Where executive decisions are the responsibility of ~~a committee of the Cabinet or an individual member of the Cabinet,~~ the rules applying to executive decisions taken by them shall be the same as those applying to decisions by the Cabinet as a whole. **details of the decision (including any report) be published after the decision has been taken, as required in law.**

It is proposed that the corresponding change be made to 4.5 of Chapter 4 with added text shown in bold and underlined and deleted text shown as struck through:

~~'There are currently no delegations to single Cabinet members'~~

**At present there is one single Cabinet Member delegation to the Lead Member for Communities, Safety and Wellbeing to make decisions on grant awards under the Member Grants scheme where a councillor has a personal interest that might lead to bias in relation to the matter, except in cases where the Lead Member for Communities, Safety and Wellbeing has a personal interest that might lead to bias in relation to the matter.**

## **Item 4 – Financial Regulations**

It is proposed that the following changes be made to the following sections of Chapter 16 with added text shown in bold and underlined and deleted text shown as struck through:

### **16.5 SPECIFIC FINANCIAL RESPONSIBILITIES**

#### **(a) Contracts**

All members of staff must comply with the requirements of the Council's Contracts Procedure Rules. Their purpose is to set clear rules for the procurement of goods, works and services for the Council. This will ensure a system of openness, integrity and accountability where the probity and transparency of the process will be beyond reproach. In turn this will lead to better value for money and give confidence to all concerned that the Borough Council is fulfilling its fiduciary responsibilities.

Any officer, Member, agent of the Council or firm, whilst acting on the Council's behalf in relation to any contractual matter directly or indirectly concerning the Council, shall conduct themselves in such a manner that the independence and integrity of the Council and the Council's procedures are at all times maintained and are seen to be maintained. Failure to observe such standards of conduct will be regarded by the Council with the utmost gravity.

The Contracts Procedure Rules set out the requirements for tendering and procurement of goods and services. The principal requirements are:

- **that for all situations below the values quoted refer to the value of the contract over the whole life of the contract.**
- Before commencing any proposed procurement process with an estimated value of £25,000 or more, the appropriate Head of Service must consult the Contract Compliance Officer, relevant Cabinet Lead Member and the Head of Finance and Property Services;
- Public Notice must be given in Source Leicestershire and on the Council's Web Site if the estimated value of the contract exceeds £25,000;
- For goods and services **estimated to cost** over £5,000 and up to £75,000 the relevant Head of Service must obtain written quotations;
- For goods and services **estimated to cost** over £25,000 and up to £75,000 written quotations must be returned to and opened by the Contract Compliance Officer;

- Full tendering requirements, including compliance with relevant EU procurement directives, apply to goods and services **estimated to cost** over £75,000;
- For goods and services **estimated to be in value** below £500,000 which do not exceed the approved budget for the scheme or supplies in question, decisions on the awarding of contracts are made by the Chief Executive or his/her nominee;
- For goods and services estimated to be £500,000 **in value** or more or where the approved budget would be exceeded, decisions on the selection of contractors are reserved to Cabinet;
- Contracts below £50,000 **in value** can be signed by the Chief Executive, Strategic Directors and Heads of Service;
- Contracts of £50,000 in value or more must be signed by the Chief Executive or his/her nominee.

For the purposes of The Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001, any contract with a value exceeding £50,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the Council or made under the Common Seal of the Council.

The functions of the Contract Compliance Officer are assigned to the Chief Executive who will then delegate these to another officer and a deputy for the normal performance of this role. The current Contract Compliance Officer is the Head of Finance and Property Services.

The Contract Compliance Officer or the Deputy Contract Compliance Officer can agree waivers to the Contracts Procedure Rules for contracts up to £500,000 **in value** providing they comply with UK Legislation and EU Procurement Directives and will maintain a record of any decisions taken on waivers. The Contract Compliance Officer is responsible for maintaining the Council's Contract Compliance Rules and is authorised to make amendments to those rules as necessary. An up to date copy of the rules is available on the Council's intranet.

At the beginning of each financial year the Contract Compliance Officer will submit an Annual Procurement Plan to Cabinet for approval, containing details of the contracts **valued** above £25,000 to be let in that financial year. In approving the report, the Cabinet will agree for each contract the form of tender evaluation arrangements and whether the tender specification needs to be approved by Cabinet. Any contracts above £25,000

in value, not in the annual plan must have their procurement arrangements agreed by Cabinet before procurement begins.

**(b) Capital Expenditure**

Capital expenditure involves acquiring or enhancing ~~fixed non-current~~ **current** assets with a long-term value to the Council, such as land, buildings, and major items of plant and equipment or vehicles as well as the contribution or payments of grants to others to be used to fund capital expenditure. Capital assets shape the way services are delivered for the long term and may create financial commitments for the future in the form of financing costs and revenue running costs. The Council applies a ~~de-minimis~~ level of £10,000 to identify capital items.

The Council approves the three-year Capital Plan. The Cabinet is able to make the following changes to the approved Plan:

- (i) virement between existing schemes as set out in (c) below;
- (ii) slippage or bringing forward of expenditure of up to £250,000 per scheme;
- (iii) addition of new schemes to the Plan where these are fully externally-funded;
- (iv) addition of new schemes to the Plan where these are funded wholly or partly from the Council's resources and where the use of the Council's resources is up to £250,000 per scheme
- (v) approval of additions or reductions in the Council resources allocated to schemes so long as any increase does not mean that the total Council resources allocated to a scheme exceeds £250,000 where it did not before, and such increase is not more than £25,000 above the value of the original scheme
- (vi) approval of additions or reductions in the Council resources allocated to schemes where the original scheme was more than £250,000 and the change is less than £250,000.

If (v) or (vi) of the above conditions applies the Cabinet will not be able to make the change if in the view of the Section 151 Officer, the change significantly affects the scheme or the funding of the Capital Plan.

The Cabinet approves the release of funding for each project in the Programme which is over £50,000. The release of funding for projects below this level is approved in accordance with the Council's Financial Procedure Rules.

**(f) Disposal of Assets**

Obsolete, non-repairable or unnecessary assets should be disposed of with a view to achieving the most economically advantageous outcome for the Council having regard to the transparency and cost effectiveness of the disposal method, the timeliness of disposal and the likely price achievable.

Where individual assets, **(which are not land or buildings)**, valued over £20,000 need to be disposed of and written off Cabinet approval must be sought in advance. Items which are valued at below £20,000 can be approved at officer level. Details of officer approval levels are contained in the Financial Procedure Rules.

Where land and property **(buildings)** assets with a freehold value of over £100,000 or a leasehold value of over £50,000 need to be disposed of or written off **(excluding Right to Buy applications)** Cabinet approval to the terms of the disposal must be sought in advance. Items which are valued at below these amounts can be approved at officer level. Details of officer approval levels are contained in the Financial Procedure Rules.

**(m) Capital Strategy and Treasury Management**

The Council ~~creates~~ **prepares** and maintains, as the cornerstones for effective **management of capital expenditure and funding and** treasury management, **a Capital Strategy**, a Treasury Management ~~Strategy~~ Statement, an Annual Investment Strategy and Minimum Revenue Provision ~~Strategy~~ **Policy** which are all approved by Council **in advance of the financial year to which they relate** each year and progress against them is monitored on a regular basis by Council.

The Audit Committee is responsible for ensuring effective scrutiny of the **capital strategy and** treasury management strategy and policies.

The detailed operational procedures are covered by the Treasury Management Practices document ~~which is the responsibility of the~~. The Section 151 Officer **is the responsible officer for reviewing and maintaining the detailed operational procedures for Treasury Management.**

### **Item 5 - Webcasting, Filming and Recording of Meetings**

It is proposed that the following change be made to Chapter 9, section 9.18 (a) of the Constitution with added text shown in bold and underlined:

- (a) Members of the public should not disrupt the conduct of meetings and must not be abusive or threatening towards the Councillors and officers attending meetings. **Any filming, recording, or reporting from meetings, including social media, should not be disruptive or intrusive.**

### **Item 6 – Licensing Committee**

It is proposed that the following change be made to Chapter 5, section 5.5 (c) of the Constitution with added text shown in bold and underlined and deleted text shown as struck through:

- (c) Licensing Committee

Functions	Delegation
<p>12. <del>To consider a hackney carriage or private hire vehicle licensee's continued fitness to hold a licence in cases where an individual licensee reaches 12 points, under the Council's Penalty Point Scheme, in a rolling 12-month period.</del></p> <p>12. <b><u>To consider a hackney carriage proprietor and driver licensee, and/or private hire driver or operator licensee's continued fitness to hold a license, including cases where an individual licensee reaches 12 points under the Council's Penalty Point Scheme, in a rolling 12-month period.</u></b></p>	<p>Items 3, 4, 6, 7, 9, 10, 11, 12 and 13 have been delegated to the Licensing Sub-committee.</p>

### **Item 7 – Personnel Committee**

It is proposed that the following changes be made to Chapter 5, section 5.5 (e) of the Constitution with added text shown in bold and underlined and deleted text shown as struck through:

<b>Functions</b>	<b>Delegation</b>
<ol style="list-style-type: none"> <li>1. To determine the terms and conditions on which staff hold office and policies relating to those terms and conditions including procedures for dismissal</li> <li>2. To determine appeals by a JNC Officer against dismissal.</li> <li>3. To determine all other employment related appeals for JNC staff which are provided for in the Council’s procedures.</li> <li>4. To make recommendations to Council on the appointment or dismissal of the Head of Paid Service.</li> <li>5. To make appointments to Chief Officer and Statutory Officer posts excluding the Head of Paid Service.</li> <li>6. To make councillor appointments to the Joint Negotiating and Consultative Committee.</li> <li>7. To undertake the Chief Executive’s Performance and Development Review.</li> </ol>	<p>Officers are authorised to exercise the powers set out in section 8 of the Constitution</p> <p>Items <del>2 to 4 and 6</del> <b><u>2,3,4,6 and 7</u></b> have been delegated to Personnel Panels.</p> <p>The Personnel Committee will appoint panels which will consist of five members (with a quorum of three) for functions <del>2 to 4 and 6</del> <b><u>2,3,4,6 and 7</u></b></p>

### **Item 8 – Scheme of Delegation to Officers**

It is proposed that the following changes be made to Part 2a of the Constitution (Section 8) paragraphs 1(v), 3, 15, 16, 33 with deleted text shown as struck through and added text shown in bold and underlined:

- 4 (v) the application is submitted by a serving member of the Council, a ~~person who has served as a member of the council at any time during the four-year period prior to the submission of the application,~~ **or** a serving officer of the Council. ~~or a person who served as an officer of the council at any time during the two-year period prior to the submission of the application.~~

- ~~3. To agree extensions to the time limits for implementing planning permissions where no demonstrable harm would be caused to an interest of acknowledged importance.~~
- 15. To respond to **notifications and** applications for determinations under ~~parts 6, 7, 24 and 31~~ of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 1995 **2015 (as amended) and any subsequent revisions to the Order.**
- ~~16. To respond to applications made under the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013~~
- 33. To serve hedgerow retention **and hedgerow replacement** notices in consultation with the Chair of Plans Committee.

Minor wording changes proposed		
Current wording	Proposed wording	Reason
<p>To determine all planning applications and applications for advertisement consent, listed building consent, conservation area consent and consent to carry out works to protected trees, except where:</p> <p>(i) the application is contrary to the provisions of an approved or draft Development Plan policy or Supplementary Planning Guidance and is recommended for permission</p>	<p>To determine all planning applications and applications for advertisement consent, listed building consent, conservation area consent and consent to carry out works to protected trees, except where:</p> <p>(i) the application is contrary to the provisions of an approved or draft or submitted Development Plan policy or Supplementary Planning Guidance and is recommended for permission</p>	<p>Draft policies can and do change through the early part of the plan making process and as such the weight that can be attached to them is limited. It is therefore proposed to limit the caveat so that Committee consider applications that conflict with adopted development plan policy (including policies in the local plan and neighbourhood plans) and new policies that have been formally submitted to the Secretary of State for Examination.</p> <p>As a planning tool Supplementary planning guidance no longer exists although legacy guidance that links to a saved</p>

		development plan policy remains available to support planning decisions. Nevertheless, supplementary planning guidance, and their successor 'supplementary planning documents' do not form part of the statutory development plan and their utility is simply to assist and guide the decision maker to understand the parent policy. Therefore, it is considered they can be removed from this caveat.
5. To approve details submitted in compliance with conditions on planning permissions.	5. To approve details submitted in compliance with conditions and planning obligations on planning permissions.	To ensure that obligations secured under Section 106 legal agreements are effectively monitored and discharged
To execute urgent works under section of the Planning (Listed Buildings and buildings in Conservation Areas) Act 1990	To execute urgent works under section 54 and determine the extent of urgent works under section 9(3) of the Planning (Listed Buildings and buildings in Conservation Areas) Act 1990	Minor amendment to ensure delegated authority is available to determine the extent of urgent works required and to amend a typo in the provision.

### **Item 9 – Definition of a Key Decision**

It is proposed that the following changes be made to Chapter 13, section 13.6 of the Constitution with added text shown in bold and underlined and deleted text shown as struck through:

*“A key decision is an Executive decision which is likely:*

- *to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the*

*Council's budget for the service or function to which the decision relates, or*

- *to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Borough.*

*The Council has developed the following guidance for what constitutes a key decision. A key decision is one which:*

- *commits the Council to expenditure, savings or increases or reductions in income of ~~£100,000~~ **£150,000** or more in any financial year;*
- *makes proposals in relation to the budget or the policy framework under Budget and Policy Framework Procedure 14.2(a), or*
- *will result in the closure of any facility from which Borough Council services are provided or a reduction by more than 10% in the level of a discrete service provided.*

*In other cases, the impact of the decision will be considered in terms of the strategic nature of the decision, the effect on the amenity of the community or quality of service provided by the Council to a significant number of people living or working in the locality affected, the size of the area affected and the likely public interest in the decision”.*