

Report of:	Meeting	Date	Item no.
Cllr Henderson, Leader of the Council and Marianne Hesketh, Service Director Performance and Innovation	Council	14 June 2018	10

## Constitution Amendments

### 1. Purpose of report

- 1.1 To enable changes to be made to the Council's Constitution.

### 2. Outcomes

- 2.1 More up to date and effective governance arrangements.

### 3. Recommendations

- 3.1 That the definition of Key Decisions in Article 16 in Part 2 of the Constitution be amended to increase the financial threshold from £50,000 to £100,000.
- 3.2 That the changes to the Scheme of Delegation to Officers, in Part 7 of the Constitution, set out in Appendix 1, be approved.
- 3.3 That the changes to consultation requirements in the Cabinet Procedure Rules in Part 4.04 of the Constitution, set out in Appendix 2, be approved.
- 3.4 That the following paragraph be added to the Terms of Reference of the Audit Committee in Article 7:
- "To receive updates and reports from the Head of Governance (Data Protection Officer) and to approve policies in relation to compliance with the Data Protection Act and Regulations made under the Act."
- 3.5 That the following additional paragraph be included in the list of executive functions delegated to the Head of Governance in Part 7.02 of the Constitution:

- “To submit reports, as the Council’s designated Data Protection Officer, to the Information Commissioner’s Office on breaches of the General Data Protection Regulations.”

**3.6** That the change to the requirements for the publication of background papers referred to in reports, referred to in paragraph 6.2 of the Access to Information Procedure Rules in Part 4.02 of the Constitution, as set out in Appendix 3, be approved.

**3.7** That the simplified wording of the Summary and the Articles in Parts 1 and 2 of the Constitution, set out in Appendix 4, be approved.

**3.8** That the proposals for the further reviews of the Constitution set out in paragraph 5.8 of this report be noted and supported.

#### **4. Background**

**4.1** A number of changes to the Constitution are required as a consequence of decisions made by Council, to reflect changed circumstances and to remove inconsistencies between different parts of the Constitution. The reasons for each of the specific changes recommended are explained below. A review of the wording and formatting of the first two Parts of the Constitution has also been undertaken and minor changes are proposed.

#### **5. Key issues and proposals**

##### Key Definitions

**5.1** The threshold for Key Decisions set out in Article 16 of the Constitution has for some years been set at £50,000. Increasing this threshold to £100,000 would align the value to the current procurement threshold in Financial Regulations. Following a review of other Lancashire authorities it has been identified that Fylde, Chorley, Preston, Burnley and Rossendale all have thresholds of £100,000 with South Ribble on £75,000 whilst Lancaster and Pendle still retain the £50,000 limit.

**5.2** No change is proposed to the other definition of a key decision, i.e. one that is *“significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority”*.

##### Scheme of Delegation to Officers

**5.3** Changes need to be made to the Scheme of Delegation in Part 7.02 of the Constitution, to reallocate authorisations previously allocated to the Head of Leisure and Tourism, following the deletion of that post. Minor clarifications also need to be made to the authorisations granted to the Head of Environmental Health and Community Safety for licensing functions. Proposed wording for both changes is set out in Appendix 1.

## Cabinet Procedure Rules: Consultation

- 5.4** The current requirements for consultation on proposals submitted in reports to the Cabinet set out in Paragraph 2.4 of the Cabinet Procedure Rules in Part 4.04 of the Constitution, are unnecessarily specific and restrictive. It is recommended that the wording be clarified, as set out in Appendix 2.

## GDPR functions and responsibilities

- 5.5** As a consequence of the implementation from 25 May 2018 of new legal requirements under the General Data Protection Regulations (GDPR), additions are required to the Terms of Reference of the Audit Committee and the delegation of functions to the Head of Governance, as set out in recommendations 3.6 and 3.7 of this report.

## Publication of Background Papers

- 5.6** The Local Government (Executive Arrangements)(Meetings and Access to Information)(England) Regulation 2012 require that any background document which has been relied on to a material extent in preparing a report must be published on the Council's website as well as being made available for inspection on request. The Council's Access to Information Rules refer only to public inspection of background papers, so reference to their publication on the website needs to be added. See Appendix 3

## Simplification of wording: Parts 1 and 2 (Summary and Articles)

- 5.7** The Summary in Part 1 and the Articles in Part 2 of the Constitution have been reviewed to ensure accuracy and to simplify the wording and format. Proposed revisions are set out as track changes in Appendix 4. It is intended that a similar review will be undertaken within the next few months to simplify the wording in the other parts of the Constitution.
- 5.8** Once that exercise has been completed and any changes have been approved by the Council, it is envisaged that a further review will be undertaken to see if it is possible to re-write or merge some parts of the Constitution (such as the Articles and the Procedure Rules), to make the whole document easier to use and to avoid repetition and duplication.

<b>Financial and legal implications</b>	
Finance	There are no additional costs arising from this report. The proposed change to the key decision threshold will simplify the process for approving some decisions, but the Financial Regulations and Financial Procedure Rules applying to the implementation of such decisions will remain unchanged.

Legal	The proposals in this report will ensure that the parts of the Council's Constitution referred to are up-to-date and that statutory requirements are met.
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### **Other risks/implications: checklist**

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	x
equality and diversity	x
sustainability	x
health and safety	x

risks/implications	✓ / x
asset management	x
climate change	x
data protection	x

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List of background papers:		
name of document	date	where available for inspection
None	-	-

### **Appendices**

Appendix 1 Scheme of Delegation: Proposed changes

Appendix 2 Cabinet Procedure Rules: Consultation requirements.

Appendix 3 Access to Information Procedure Rules: Publication of Background Papers

Appendix 4 Summary and Articles of the Constitution – Simplified wording

**Changes to Scheme of Delegation**

**Re-allocation of authorisations currently allocated to the Head of Leisure and Tourism**

The authorisations listed below are currently delegated to the former post of to the Head of Leisure and Tourism. It is proposed that they now each be re-allocated to the officers shown in italics.

**Executive Functions**

1. To alter normal opening hours in any buildings, premises or facilities open to the public for specific events, public holidays or other urgent reasons.

*All Heads of Service*

2. To waive fees and charges where such action will result in enhanced promotion.

*Service Director Performance and Innovation*

3. To manage the Council's markets.

*Service Director Performance and Innovation*

4. To obtain licences issued under the Licensing Act 2003.

*Service Director Performance and Innovation*

5. To manage and deal with all matters affecting the Marine Hall and Thornton Little Theatre.

*Service Director Performance and Innovation*

**Non-Executive Functions**

1. To agree boating byelaws in accordance with the Local Government (Miscellaneous Provisions) Act 1976.

*Service Director People and Places*

**Changes to authorisations to the Head of Environmental Health and Community Safety**

The Licensing Act 2003 and the Criminal Justice and Peace Act 2001 (S 19) need to be added to the lists of legislation under which the Head of Environmental Health can exercise powers.

**Cabinet Procedure Rules: Paragraph 2.4 – Consultation**

**Revised wording**

**2.4 Consultation**

Consultation will be carried out on proposals in All reports to the Cabinet from any member of the Cabinet or an Officer on proposals relating to the budget and policy framework must contain details of the nature and to the extent necessary to comply with legislation and the Council's duty to consult of consultation with stakeholders and the Overview and Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## Access to Information procedure Rules

### Revised wording: Publication of Background Papers

#### 6. Background Papers

##### 6.1 List of Background Papers

Report authors will set out in every report a list of those documents (called “background papers”) relating to the subject matter of the report which in his/her opinion:

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

##### 6.2 Inspection ~~of~~ and Publication ~~of~~ Background Papers

The Council will make available for public inspection and publish on the Council's website for a minimum period of 4 years from the date of the meeting to which the report is submitted, on request for four years after the date of the meeting one copy of each of the documents on the list of background papers.

**Proposed changes to Summary (Part 1) and Articles (Part 2) of the Constitution  
(Simplified wording and more consistent format)**

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