

TO: COUNCIL
16 JULY 2014

**REVISION OF FINANCIAL REGULATIONS AND OTHER AMENDMENTS
TO THE COUNCIL'S CONSTITUTION
(Director of Corporate Services – Legal and Finance)**

1. PURPOSE OF REPORT

- 1.1 This report seeks the Council's endorsement to recommendations made by the Governance and Audit Committee at its meeting on 1 April 2014. The recommendations propose amendments to the Council's Constitution and a revision of Financial Regulations.

2 RECOMMENDATIONS

- 2.1 **That Council approve the revised Financial Regulations set out at Appendix 1 to this report.**
- 2.2 **That Council approve the amendments to the Council's Constitution set out in Section 5 below.**

3 REASONS FOR RECOMMENDATIONS

- 3.1 To give effect to the recommendations of the Governance and Audit Committee.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None.

5 SUPPORTING INFORMATION

Financial Regulations

- 5.1 Financial Regulations are reviewed on a regular basis to ensure they remain fit for purpose. In addition to this the recent report of the Working Group of the Overview and Scrutiny Commission "A Review of Delegated Authorities" made one significant recommendation around the capital virement rules which the Executive has subsequently accepted.
- 5.2 Proposed changes to Financial Regulations as recommended for approval by the Governance and Audit Committee at its meeting on 1 April 2014 are set out in Appendix 1. Most are of a housekeeping nature, reflecting current best practice or providing clarification where this has been felt necessary. Housekeeping changes include:
- Emphasising that Financial Regulations apply to schools, although Head Teachers are not regarded as Directors for the purposes of Financial Regulations.

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- Reflecting staffing changes and responsibilities e.g. that the Chief Accountant or Chief Technical Accountant now fulfil the role of deputy Section 151 Officer.
- Revisions to accounting standards, codes of practice and the Accounts and Audit Regulations.
- Updates to reflect the Council's current approach to service planning and performance reporting.
- The need for budget managers to be trained sufficiently
- Reflecting that the preferred method of paying suppliers is now BACS rather than cheques.
- Introducing the concept of category strategies and the need for purchasing decisions to be made in accordance with any approved category strategies.

5.3 More substantial changes have been made to Financial Regulation 2.5 Capital Programmes. These include:

- Changes to the capital virement rules to make them consistent with the revenue virement rules.
- The need to include details of all schemes estimated to cost more than £50,000 within the published capital programme,
- Delegated authority to the Borough Treasurer to approve virements of up to £250,000 in consultation with the Children, Young People and Learning Capital Programme Board, within the overall capital budget for schools (as recommended by the Working Group of the Overview and Scrutiny Commission), and
- The inclusion of officer and Member responsibilities with regard to the allocation of resources within an approved rolling capital programme and approving expenditure above the scheme estimate. This reflects delegations included elsewhere within the Constitution. They have now been included in Financial Regulations to provide clarity and ensure consistency.

Other Amendments to the Council's Constitution

5.4 The Governance and Audit Committee further recommend the following adjustments to the Council's Constitution.

Budget Votes

5.5 On 25 February 2014 the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 ("the Regulations") came into force. The regulations require local authorities to amend their Standing Orders as soon as reasonably practicable to provide that at the budget-setting meeting of the Council there must be a recorded vote on any decision related to the making of those calculations which result in the setting of the Council Tax for the next financial year. It is therefore proposed that Council Standing Orders be amended accordingly.

Restrictions on Executive Decision Making

- 5.6 When Executive Arrangements were first introduced under the Local Government Act 2000 the legislation permitted Councils to specify in their constitution an appropriate tier of decision making authority (full Executive, Executive Committee, Portfolio Holder or officer) for Executive functions. Accordingly, Section 5.3 of Part 2 of the Council's Constitution stipulates:-

"Within the terms of the Constitution, the Leader may further provide for Executive functions to be discharged by:-

- (i) the Executive as a whole
- (ii) a Committee of the Executive
- (iii) an individual Member of the Executive
- (iv) an Officer
- (v) jointly with another local authority
- (vi) another local authority"

A table (a copy of which is shown as Appendix 2) at Section 5.5 in Part 2 of the Constitution sets out the limitations which were prescribed by Council.

- 5.7 The 2000 Act as now amended by the Localism Act 2011 no longer permits the Council to specify tiers of decision making for Executive functions. The legislation now provides that the authority to determine the appropriate level of decision making rests with the Leader. Therefore, Section 5 Part 2 of the Council's Constitution needs to be amended to reflect the up-to-date legislative position; in particular the table within Section 5.5 of Part 2 should be deleted. Although the restrictions on allocation of decision making responsibilities will be omitted from the Constitution it is proposed that they be retained in practice by incorporation into the Leader's scheme of allocation of Executive responsibilities.

Overview and Scrutiny Procedure Rules for Call-In

- 5.8 The Procedure Rules for the Overview and Scrutiny Commission and its Panels are set out in Section 9 of Part 4 of the Constitution. Those rules include provision for call-in of decisions made by the Executive, a Portfolio Holder, an Executive Committee or a Key Decision made by an officer. An exception is provided for in the case of decisions which are required to be taken as a matter of urgency.
- 5.9 The Procedure Rules stipulate that a meeting of the Overview and Scrutiny Commission is convened within seven working days of the decision to call-in. However, the Council's Committee Procedure Rules (reflecting legislative requirement) provide that an agenda be sent out a minimum of five clear working days before the meeting. In practice it is extremely difficult, if not impossible, to satisfy both rules. To allow a more feasible period within which a meeting of the Commission should be held it is proposed that the Overview and Scrutiny Procedure Rules stipulate that the meeting of the Commission

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be held as soon as reasonably practicable but in any event within fifteen working days of the decision to call in.

Committee Procedure Rules

- 5.10 The Committee Procedure Rules provide that the time and place of Committee meetings will be determined by Council. That contrasts with the Council Procedure Rules which stipulate that the time and place of Council meetings will be determined by the Chief Executive. Recent experience with the Council Chamber being unavailable suggests that the Committee Procedure Rules should be amended to align with the Council Procedure Rules (i.e. time and place of meetings to be determined by the Chief Executive) simply because there may be no scheduled Council meeting to take a decision as to the location of the meeting if the Council Chamber should not be available for a scheduled Committee meeting.

6. ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The Borough Solicitor is the author of this report.

Borough Treasurer

- 6.2 There are no financial implications directly arising.

Equalities Impact Assessment

- 6.3 Not required.

Strategic Risk Assessment Issues

- 6.4 None.

Chief Officers

- 6.5 None.

7. CONSULTATION

Principal Groups Consulted

- 7.1 Governance and Audit Committee

Method of Consultation

- 7.2 Report to meeting of 1 April 2014

Representations Received

- 7.3 As set out at paragraph 2.

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Background Papers

None.

Contact for further information

Alex Jack, Borough Solicitor – (01344) 355679

Alex.Jack@bracknell-forest.gov.uk

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Aj/f/reports/Council – 16 July 2014 – Revision of Financial Regulations