

**Open Report on behalf of Andrew Crookham,
Executive Director - Resources**

Report to:	County Council
Date:	21 February 2020
Subject:	Changes to Constitution - Financial Regulations and Audit Committee Terms of Reference

Summary:

This report proposes Changes to the Financial Regulations and the Audit Committee Terms of Reference that form part of the Council's Constitution.

Recommendation(s):

That the Council approves:-

- 1) the Financial Regulations set out in Appendix A of this report for inclusion in the Council's constitution; and
- 2) the amendments to the Terms of Reference of the Audit Committee contained in Article 7.06 of the Council's Constitution set out and shown in Appendix C of this Report.

1. Background

Financial Regulations

- 1 The Financial Regulations form part of the Council's internal governance arrangements. Their objective is to ensure that Officers and Councillors alike have a set of financial rules and guidance within which they should operate. The Financial Regulations should be maintained and updated on a regular basis, the latest update has now concluded and the Financial Regulations have been revised to reflect the current organisation and working environment.
- 2 Many of the changes are terminological (for example changing "Executive Director of Resources" to "s151 Officer" throughout). Other changes have been made to ensure the document correctly describes the roles and responsibilities of the various decision-making bodies and committees of the Council as set out in the other parts of the Constitution.

- 3 The opportunity has also been taken to rearrange the order for the document. For example the sections on Assets and Treasury and Investment Management have been moved from section C to a new Section E. The section on Income and Expenditure, formerly in section D6 has been moved to a new section F.
- 4 The full revised version of the Financial Regulations is attached at Appendix A. Because of the amount of terminological and other minor changes and because of the movement of large amounts of text within the document a version showing tracked changes would be confusing.
- 5 Therefore those areas of the document where more substantive changes are proposed are highlighted and commented on below. For full comparison purposes the existing set of Financial Regulations is attached at Appendix B.

Paragraph B16 – The Reallocation of Budget (virement)

- 6 This paragraph now defines the level at which re-allocations of budget are approved. This will be at Assistant Director level. The paragraph also defines that re-allocations will be limited to those instances where the change relates to a change in purpose to that for which the budget was originally approved. The purpose of this is to limit the number of instances where a re-allocation is requested and to ensure budget monitoring can be the appropriate vehicle to identify under/over spendings rather than budget being reallocated to mask those positions.
- 7 The bullet points within this paragraph have been amended to distinguish between revenue to revenue budget reallocations and movement from revenue to capital.

Paragraphs B17-B20

- 8 These are new paragraphs relating to the bidding and accounting for external funding. These paragraphs were originally contained in the Council's Financial Strategy, however, it was felt more appropriate for these conditions to be included in the Financial Regulations. The wording of the paragraphs has been amended to reflect the need to consult with rather than gain approval from Executive Councillors and the S151 Officer before making a bid and the thresholds are now defined as the value of External Funding rather than the total cost of the project or scheme.

Paragraphs C1–C31

- 9 The entire Risk Management and Internal Control section has been rewritten to describe current good practice within this area and to make it explicitly clear what the Council expects in terms of risk management and good governance.

Paragraph E3, Disposal of Unwanted or Obsolete Assets

- 10 This has been rewritten to update the values of the approval thresholds. These thresholds also include a new requirement to consult with Chief Officers, S151 Officer and Executive Councillors as appropriate.

Paragraph F4, Write Off of Bad Debt

- 11 This paragraph has been rewritten to update the values of the approval thresholds and also to bring in an additional level that requires the Executive to approve the write off of debt in excess of £500,000. Also the lower levels of debt write off are now approved by the S151 Officer rather than Chief Officer.

Paragraphs G9 to G13

- 12 These paragraphs which used to be in section D11 have been expanded and brought into line with similar provisions in the Contract Regulations.
- 13 The draft Financial Regulations were considered by Audit Committee on 18 November 2019 and the Committee resolved to recommend the changes for approval by full Council.

Audit Committee Terms of Reference

- 14 CIPFA's Practical Guidance for Audit Committees 2018 provides local authorities with suggested terms of reference for its Audit Committee. The Council's Audit Committee terms of reference have been reviewed and updated to reflect this good practice guidance. The amendments are shown by way of strike-through or underlining in Appendix C to this Report.
- 15 The amended Terms of Reference were considered by the Audit Committee on 18 November 2019 and the Committee resolved to recommend them for approval by full Council.

2. Legal Issues:

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- * Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- * Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- * Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- * Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- * Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- * Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding

Compliance with the duties in section 149 may involve treating some persons more favourably than others

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process

The Equality Act duty has been considered but there are not considered to be any equalities implications attaching to the decision.

Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision

The JSNA and JHWS have been considered but there are not considered to be any implications attaching to the decision.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

The s17 Crime and Disorder Act matters have been considered but there are not considered to be any implications attaching to the decision.

3. Conclusion

The Council's Financial Regulations have been reviewed and proposals are presented as to how they should be updated.

Proposals are also made for changes to the Audit Committee's Terms of Reference to reflect the latest good practice guidance issued by CIPFA.

4. Legal Comments:

The recommendations are lawful.

The Financial Regulations and Audit Committee Terms of Reference form part of the Constitution. Approval of changes to the Constitution are reserved to full Council and therefore the decision is within the remit of full Council.

5. Resource Comments:

It is important that the Council's Financial Regulations are kept up to date. The changes proposed enable the Financial Regulations to continue to be a current living document that Members and Officers alike can work within to ensure the Council's assets are safeguarded.

6. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

n/a

c) Scrutiny Comments

The decision has not been subject to Scrutiny. The comments of Audit Committee are included in the body of the Report.

d) Have Risks and Impact Analysis been carried out?

No

e) Risks and Impact Analysis

n/a

7. Appendices

These are listed below and attached at the back of the report	
Appendix A	Revised Financial Regulations (main changes are highlighted)
Appendix B	Existing Financial Regulations
Appendix C	Audit Committee Terms of Reference

8. Background Papers

The following Background Papers within the meaning of section 100D of the Local Government Act 1972 were used in the preparation of this Report.

Document title	Where the document can be viewed
Audit Committee Paper 23rd September 2019 - Update of Financial Regulations	Democratic Services
Audit Committee Paper 18th November 2019 - Update of Financial Regulations	Democratic Services
Audit Committee Paper 18th November 2019 – Review of Audit Committee Terms of Reference and Internal Audit Charter	Democratic Services

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