

Appendix 2: Constitution Review 2019

Amendments recommended to Council by the Cross Party Constitution Review Group.

Ref.	Rationale for proposed amendment	New ref:	Proposed text
Part 3	Council responsibilities and executive responsibilities		
3.4 123	<p>Proposal: Amend wording to allow officers who have had Council functions delegated to them to authorise officers with the relevant skills and responsibilities to undertake those delegated functions (in addition to officers they line manage)</p> <p>Rationale: To clarify which officers can be authorised to undertake delegated functions and to correct an inconsistency between how delegation works for Council functions (5.1) and for executive functions (4.4)</p>	3.4	<p>How delegation works</p> <p>....</p> <p>b) Officers' use of powers delegated to them by Council and the Leader</p> <p>....</p> <p>Officers who have had something delegated to them (and those officers who manage them) can authorise officers they line manage <u>or other officers with the relevant skills and responsibilities</u> to do it on their behalf (unless it was delegated on condition that they do it themselves) <u>but will remain responsible and accountable for the exercise of the delegated function.</u></p>
3.7	<p><i>Proposed new wording to replace all of the existing wording at 3.7 on the Council's companies:</i></p> <p>The Council's companies</p> <p>(a) <u>Company objects</u></p> <p><u>Where the Council uses the enabling legislation to create its own companies, either as the sole or as a joint owner, the broad terms of the objects of each Council company will be recorded in its Articles of Association, while its Shareholder Agreement will set out more detailed operational arrangements and the matters which are reserved for determination by the Council as the shareholder. In general, these reserved matters will be key structural and high-level strategic matters rather than the "day-to-day" business and operations of the company, which will be the responsibility of the company directors.</u></p> <p>(b) <u>Governance framework</u></p> <p><u>Each Council-owned company is an independent legal entity which is entirely separate from the Council. The company will have its own identity and responsibilities, so cannot be treated as an internal department of the Council. A Council-owned company is required to comply with Company law, its Articles of Association and its Shareholder's Agreement. It is not governed by the</u></p>		

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Council's Constitution.

(c) Shareholding

The responsibility to represent the Council as shareholder of each company is an executive function. The Leader of the Council may therefore determine the nature of such representation, currently operated through a Shareholder and Joint Venture Group comprising all members of Cabinet.

The Shareholder and Joint Venture Group will meet the company's directors and representatives on a quarterly basis to monitor the company's progress, decide any matters falling within its reserved matters, protect the Council's interests and investments in the company and determine the future direction of the company. The Council's Chief Finance Officer and Monitoring Officer will act as advisors to the Shareholder and Joint Venture Group. The Chief Executive or an Executive Director nominated by the Chief Executive will advise the Shareholder and Joint Venture Group on matters of policy.

The activities of the Shareholder and Joint Venture Group will be subject to consideration by the Council's Scrutiny Committee. The individual companies will not be directly accountable to the Council's Scrutiny Committee.

(d) Company Board of Directors

The appointment of directors to the Board of a Company is the responsibility of the shareholder(s). The directors hold a fiduciary duty to their company, but at the same time are also accountable to the shareholder(s), and as such owe duties to both the Council and the company.

(e) Contracting

The Council and its companies may choose to contract with each other as separate entities - for example, the Council may appoint a company as its supplier of certain services, while a company may appoint the Council to supply its administrative services. Where the company meets the requirements of the "Teckal exemption" such contracts may be awarded without the need to comply with the full requirements of the Public Contract Regulations 2015 but the Council will need to ensure it meets its duties as a best value authority (Part 19.11). Where contracting takes place, the Council will have formal agreements in place with the company setting out the terms of the agreed service levels and a procedure for dispute resolution.

(f) Conflicts

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	<p><u>As the Council and its companies are separate legal entities, care must be taken to ensure that conflicts of interest are avoided. When Council officers are asked to provide advice in a situation where the interests of the Council and the company are not entirely aligned, individual officers should be assigned to advise or represent one side or the other, but should not act for both.</u></p>		
Part 4	Who carries out executive responsibilities?		
4.4	<p>Proposal: To properly reflect the level of authority delegated to officers which is £1m when buying (see 19.21 c) and d))</p> <p>Rationale: To provide consistency and clarity</p>	4.4	<p>Delegation to officers</p> <p>Details of the following decisions taken by officers under delegated powers will be published on the Council website:</p> <ul style="list-style-type: none"> • Awarding a contract with a value in excess of £10,000 but less than £500,000 <u>£1,000,000</u> when the Council is the buyer ...
4.5 125	<p>Rationale: To provide clarity as the Constitution is currently silent on the agreement of budgetary carry forwards and Cabinet has previously been asked to agree to very low value carry forwards. Carry forwards up to the value of £10k will be delegated to the Chief Finance Officer – links to 9.6.</p>	4.5 New delegation	<p>Decisions that must be agreed by the Cabinet</p> <ul style="list-style-type: none"> • <u>agreeing single carry forward sums in excess of £10,000</u>
	<p>Rationale: To reflect a Cabinet decision not to delegate future decisions under the CIL discretionary Exceptional Circumstances Relief Policy</p>	4.5 New delegation	<ul style="list-style-type: none"> • <u>making decisions under the Community Infrastructure Levy Exceptional Circumstances Relief Policy</u>
	<p>Rationale: To provide clarity in relation to agreeing regular flag flying and bell ringing commitments</p>	4.5 New delegation	<ul style="list-style-type: none"> • <u>agreeing annual or regular flag flying and bell ringing commitments</u>

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	<p>Proposal: To remove reference to neighbourhood action areas and clarify that the adoption of PSPOs that geographically include the whole local authority area will be a matter for Cabinet (links to 4.8)</p> <p>Rationale: To provide clarity as neighbourhood action areas no longer exist</p>	4.5	<ul style="list-style-type: none"> • making a Public Spaces Protection Order that affects multiple neighbourhood actions areas or the city centre and which has a significant impact on anti-social behaviour across the city • <u>adoption of Public Spaces Protections Orders that geographically include the whole local authority area</u>
	<p>Rationale: Add a new item to the list of Cabinet decisions to mirror changes at 18.23</p>	4.5 New delegation	<p>Decisions that must be agreed by the Cabinet</p> <p>....</p> <p><u>recommending to Council loans and loan guarantees financial guarantees of over £250,000 to a company which is not wholly owned by the Council or to another external organisation</u></p>
126 4.6	<p>Proposal: To include the rules on allocating the neighbourhood portion of CIL monies</p> <p>Rationale: To provide clarity and reflect the requirements for the allocation of CIL monies</p>	4.6 Additional wording	<p>Ward member decisions</p> <p><u>(c)</u></p> <p><u>CIL monies must be spent on local infrastructure which may include:</u></p> <ul style="list-style-type: none"> • <u>The provision of infrastructure</u> • <u>The improvement of infrastructure</u> • <u>The replacement of Infrastructure</u> • <u>The operation and maintenance of infrastructure</u> • <u>Anything else to mitigate the demands development places on an area, including one-off feasibility studies to further proposals for capital projects.</u> <p>(d) Any spend must be approved by the Monitoring Officer and the Chief Finance Officer. <u>CIL allocations must also be approved by the Head of Planning Services.</u></p>

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<p>4.8</p> <p>127</p>	<p>Proposal: Amend the delegation of powers in relation to the adoption of Public Spaces Protection Orders so that it is clear when a Cabinet decision is required and also expand the officer delegation so that the Chief Executive, any Executive Director or the Assistant Chief Executive, in consultation with the relevant Cabinet Member, can approve a PSPO that does not geographically include the whole local authority area</p> <p>Rationale: To provide greater flexibility around the approval process for PSPOs that do not cover the whole local authority area. This will enable the Council to address issues in localised areas more quickly</p>	<p>4.8</p>	<p>Public Space Protection Orders</p> <p>Following appropriate consultation to include the relevant Cabinet member and ward councillors, the Executive Director of Communities and</p> <p>Customers can adopt and publish Public Spaces Protection Orders where the area covered by the Order is wholly within a neighbourhood action group (NAG) area or is confined to the vicinity of the banks of waterways within the city.</p> <p><u>Cabinet will adopt Public Spaces Protection Orders that geographically include the whole local authority area. In respect of other PSPOs, following consultation with the Cabinet Member responsible for community safety and the ward members, the Chief Executive, an Assistant Chief Executive or an Executive Director can adopt and publish Public Spaces Protection Orders. All of the statutory requirements for the making of an order must be satisfied. Any proposal for a PSPO covering two or more Council wards must be treated as a Key Decision (Part 15.15).</u></p>
<p>Part 5</p>	<p>Who carries out Council responsibilities?</p>		
<p>5.1</p>	<p>Proposal: Amend wording to allow officers who have had Council functions delegated to them to authorise officers with the relevant skills and responsibilities to undertake those delegated functions (in addition to officers they line manage)</p> <p>Rationale: To clarify which officers can be authorised to undertake delegated functions and to correct an inconsistency between how delegation works for Council functions (5.1) and for executive functions (4.4) – to reflect change in 3.4</p>	<p>5.1</p>	<p>Council responsibilities</p> <p>Council responsibilities are listed in this section, which also shows who carries them out. Anything not listed is an executive responsibility.</p> <p><u>Officers who have had something delegated to them (and those officers who manage them) can authorise officers they line manage or other officers with the relevant skills and responsibilities to do it on their behalf (unless it was delegated on condition that they do it themselves) but will remain responsible and accountable for the exercise of the delegated function.</u></p>

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<p>5.2</p> <p>128</p>	<p>Proposal: To update the list of documents that comprise the Budget and Policy Framework</p> <p>Rationale: To provide clarity about which plans and strategies must be developed and approved in accordance with the Council's budget and policy framework procedures (Part 16). Consequent to a review of the Budget and Policy Framework by officers in 2019.</p>	<p>5.2 x-ref to 16</p>	<p>Budget and policy framework</p> <p>....</p> <p>.... The budget and policy framework includes the following:</p> <ul style="list-style-type: none"> • Corporate Plan<u>Strategy</u> • Budget and Medium Term Financial Plan (including the Capital Programme and Housing Revenue Account business plan) • Allocations Scheme • <u>Asset Management Plan</u> • <u>Capital Strategy</u> • Community Engagement Plan<u>Policy Statement</u> • <u>Crime and Disorder Reduction Strategy</u> • <u>Development Plan documents</u> • Housing and Homelessness Strategy • Housing Asset Management Strategy • Tenancy Strategy and <u>Tenancy Policy Statement</u> • Treasury Management Strategy (including the Borrowing Strategy, Investment Strategy and Minimum Revenue Position Statement) • Renovation and Disabled Facilities Grants and Loans Policy (became Housing Assistance and Disabled Adaptions Policy) • Sustainability Strategy • Culture Strategy • Organisational Change Strategy • Recycling and Waste Strategy
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			<ul style="list-style-type: none"> <u>Vibrant Active Oxford Strategy</u>
<p>1 5.3(a)</p>	<p>Proposals:</p> <p>Delegate the power to deal with s.278 of the Highways Act 1980 to the Head of Planning Services</p> <p>Delegate powers relating to important hedgerows to the Head of Planning Services</p> <p>Add the power to authorise rights of entry under s324 of the Town and Country Planning Act 1990</p> <p>Rationale: to reflect current practice and provide clarity</p>	<p>5.3(a) Additional delegation</p>	<p>Planning</p> <p>Description of responsibility</p> <p>All the responsibilities in Paragraph A and column (1) of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and</p> <ol style="list-style-type: none"> <u>the power to deal with agreements under s.278 of the Highways Act 1980;</u> the duty to deal with complaints about high hedges under Part 8 of the Anti-Social Behaviour Act 2003; the power to preserve trees under the Sections 197 to 214D of the Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Tree Preservation) (England) Regulations 2012; and the power to authorise the stopping up or diversion of rights of way under Section 257 of the Town and Country Planning Act 1990; <u>the power to protect important hedgerows under the Hedgerows Regulations 1997; and</u> <u>the power to authorise rights of entry under section 324 of the Town and Country Planning Act 1990, sections 88 and 88A of the Planning (Listed Buildings and Conservation Areas) Act 1990 and sections 36 and 36A of the Planning (Hazardous Substances) Act 1990.</u>
	<p>Proposals:</p> <p>Increase delegation to Head of Planning Service to determine all non-major non-</p>		<p>Area planning committees</p> <p><u>Area planning committees are responsible for:</u></p>

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<p>5.3 (b)</p> <p>130</p>	<p>residential planning applications (at 5.3(b))</p> <p>Remove the need for all applications submitted by the Council to be decided by committee. The same rules to apply as for other applicants</p> <p>Keep the requirement for staff/ councillor applications to be considered by committee</p> <p>Rationale: For consistency and efficiency of decision making and to reduce the number of non-major applications being considered by committee</p>	<p>5.3(b)</p>	<ul style="list-style-type: none"> • deciding planning applications for more than five residential units or for residential developments on sites with a site area of over 0.25 hectares • deciding planning applications for non-residential developments on sites or a site of over 0.5 <u>1</u> hectares • deciding planning applications for non-residential developments with new or increased floor space of more than 500 <u>1,000m²</u> • deciding planning applications by the Council in relation to land in the ownership or control of the Council except where these relate to council housing stock (Regulation 3 approvals) and the application is consequent to a publically available decision or policy • deciding planning applications made by or on behalf of councillors or officers <p>.....</p>
<p>New</p>	<p>Proposal: To delegate to the Head of Planning Services the power to allocate CIL monies where planning consent requires a CIL contribution up to £500,000</p> <p>Rationale: To provide clarity as such allocations are currently dealt with on an ad hoc basis. Allocations above this threshold would be a matter for Council</p>	<p>5.3(b) (v) New delegation</p>	<p>Head of Planning Services</p> <p>The Head of Planning Services has responsibility for all other functions within 5.3(a) including but not limited to:</p> <p>....</p> <p><u>(v) the allocation of Community Infrastructure Levy (CIL) monies where planning consent requires a CIL contribution of up to £500,000</u></p> <p><u>At regular intervals the Council will advise any Neighbourhood Forum how much is in the neighbourhood CIL pot for their area and ask how it would wish the Council to allocate this. The Forum should then consult on its proposed CIL allocations which should include</u></p>

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			<u>consultation with ward councillors.</u>
New	<p>Proposal: Delegate to the Head of Planning Services the authority to approve amendment of the Council's flag-flying consent (which lasts for five years at a time) under the advertisement consent regime (Town and Country Planning (Control of Advertisements) (England) Regulations 2007)</p> <p>Rationale: To remove the need for repeated applications to be considered by committees and to be able to respond to members' requests</p>	5.3 (b)(vi) New delegation	<u>(vi) approval of the Council's flag flying consent under the advertisement consent regime (Town and Country Planning (Control of Advertisements) (England) Regulations 2007</u>
131 New	<p>Proposal: Delegate authority to the Head of Planning Services to consult on amendments to conservation areas</p> <p>Rationale: To provide clarity as not currently listed</p>	5.3 (b)(vii) New delegation	<u>(vii) consulting on amendments to conservation areas; to include consultation with local ward members.</u>
5.6(b)	<p>Proposal: Review the delegations around decisions on taxi and private hire and other vehicle licensing applications to the Head of Community Services</p> <p>Rationale: To allow officers to determine more matters relating to fitness without reference to committee</p>	5.6(b)	<p>Taxi and private hire and other vehicle licensing</p> <p>The General Purposes Licensing Committee:</p> <p>...</p> <ul style="list-style-type: none"> • appoints a General Purposes Licensing Casework Sub-committee to: <ul style="list-style-type: none"> ○ decide taxi and private hire and other vehicle, driver and operator licence applications when the applicant has <u>been issued with a "minded to refuse notice" and has requested a hearing</u> a conviction and the Head of Community Services has concerns about the nature of the offence, or the applicant or the vehicle may not be suitable for some

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			<p>other reason</p> <p>...</p> <p>The Head of Regulatory Services and Community Safety has responsibility for everything else including the immediate suspension of taxi and private hire drivers' licences in the interests of public safety <u>and issuing a minded to refuse notice.</u></p>
5.15	<p>Proposal: to include reference to staffing redesign, restructures and the allocation of responsibilities</p> <p>Rationale: to clarify the powers of the Chief Executive, Assistant Chief Executive and Directors in relation to staffing changes</p>	5.15	<p>Power to appoint staff and to set their terms and conditions (including procedures for dismissing them)</p> <p>...</p> <p>The Chief Executive, Assistant Chief Executive or any <u>Executive Directors</u> can appoint Heads of Service <u>and put in place arrangements for staffing including redesign, restructures and allocation of responsibilities.</u> <u>The Assistant Chief Executive and Executive Directors can only make such arrangements <i>subject to budget approval</i> in relation to their own areas of responsibility.</u></p>
132			
Part 7	Roles of decision taking Committees		
7.8	<p>Proposal: Expand the remit of the Appointments Committee to include the receipt of a report from the Chief Executive on senior management arrangements</p> <p>Rationale: To provide greater transparency</p>	<p>7.8 (f)</p> <p>x-ref to 9.3 (a) and to 14</p>	<p>Appointments Committee</p> <p>....</p> <p><u>(f) To receive a report from the Head of Paid Service on senior management arrangements, to include any change, every six months</u></p>
Part 9	Roles of Officers		
9.3(a)	<p>Proposal: Revise to provide greater flexibility for the Chief Executive so that they can appoint interim executive directors without recommendation to the Appointments</p>	9.3(a)	<p>Role of Head of Paid Service</p> <p>(a) The Head of Paid Service (<u>Chief Executive</u>) may amend the senior management structure of the Council to deliver the Council's objectives in the most effective and efficient manner,</p>

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133	<p>Committee</p> <p>Rationale: To provide clarity and flexibility</p>		<p>subject to the following conditions:</p> <p><u>That the Chief Executive can make interim appointments, of up to twelve months in total, to the senior management structure in order to facilitate projects or to fill a skills gap;</u></p> <p>That the Chief Executive shall consult with all political group leaders prior to the implementation of any changes <u>to the senior management structure;</u></p> <p>That no change may be implemented which results in an increase in the overall number of senior management posts or an increase in the overall salary costs of senior management</p> <p><u>That the Chief Executive will report to the Appointments Committee every six months in relation to the senior management arrangements including any changes made to those arrangements;</u></p> <p>That the Chief Executive will maintain on the Council's website an up to date senior management structure chart showing post titles and the broad functional responsibilities of each post; <u>and</u></p> <p>The references to the senior management structure throughout the Constitution shall be a reference to the structure chart published by the chief executive under <u>9.1 (iii) above.</u></p>
9.3(b)	<p>Proposal: To amend the urgency and emergency powers in relation to the Chief Executive's powers</p> <p>Rationale: To provide clarity and distinction between the powers and duties</p>	9.3(b) and new (c) to replace deletion in (b)	<p><u>(b) The Head of the Paid Service is authorised to take any urgent action necessary in the event of a civil emergency and deal with matters relating to civil protection/emergency planning arising from the Council's powers and duties under the appropriate legislation. The Head of Paid Service can also take any action necessary to protect the Council's interests and assets where time is of the essence and it is impracticable to secure authority to act where such</u></p>

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134			<p>authority would otherwise be required.</p> <p>The Head of Paid Service, in so acting, will be guided by the budget and policy framework, will consult the other Statutory Officers before acting and will report, in writing, as soon as practicable to the body which would otherwise have been required to give the necessary authority to act.</p> <p><u>(c)The Head of the Paid Service may authorise any emergency action required on any matter which shall include incurring expenditure, including those falling within the jurisdiction of a Committee or the Cabinet.</u></p> <p><u>The Head of Paid Service, in so acting, will be guided by the budget and policy framework, will consult the other Statutory Officers before acting and will report, in writing, as soon as practicable to the body which would otherwise have been required to give the necessary authority to act.</u></p>
New	<p>Proposal: Provision to be added relating to approval by Council of salary packages for new posts above £100k per annum and severance arrangements agreed in line with the relevant policies that exceed £100k</p> <p>Rationale: To comply with Government Guidance issued under section 40 of the Localism Act 2011 (February 2013 Department for Communities and Local Government)</p>	9.3(g) New provision	<p><u>Decisions relating to salary packages for new posts added to the senior management structure where the salary package per annum is above £100k is to be made subject to full Council approval. In addition, any severance arrangements agreed in line with the relevant policies that exceed £100k must be subject to full Council approval.</u></p>
9.6	<p>Proposal: Delegation to the Chief Finance Officer to approve single budget carry</p>	9.6(f) New delegation	<p>Role of Chief Finance Officer</p> <p><u>(f) Carry forwards</u></p>

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	forwards up to £10,000 – Cabinet will approve carry forwards over this sum Rationale: To remove the need for very minor carry forward sums to be considered by Cabinet.	x-ref 18.10(d)	<u>The Chief Finance Officer can approve single budgetary carry forwards up to £10,000</u>
Part 11	Council procedures		
11.13(e) 135	Proposal: To amend the restrictions on public questions and answers to include a word limit on questions and clarify the time allowed for each Rationale: To make a clearer distinction between public questions and public addresses	11.13(e)	Questions by the public (e) Length of questions and answers Questions and answers to questions cannot take longer than three minutes <u>each</u> unless the Lord Mayor agrees. <u>The total length of a question may be no longer than 200 words.</u>
11.18(d)	Proposal: To clarify the order in which motions will appear on the agenda and reflect current practice Rationale: To reflect current practice	11.18 (d)	Motions on Notice Listing motions on the agenda Motions will appear on the agenda in an order that will rotate between the different political groups at each meeting. Subject to this rotation, motions will appear and be taken in the order they were received by the Head of Law and Governance; <ul style="list-style-type: none"> • <u>all cross party motions will be taken first:</u> • <u>a cross-party motion is one supported in writing by all the leaders of the political groups on the Council</u> • <u>a motion supported by fewer than all the political group leaders is not cross party and will be listed in the appropriate order for the proposer's group</u> • <u>a single motion can be proposed and seconded by members of</u>

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			<p><u>different political groups</u></p> <ul style="list-style-type: none"> • <u>a single motion from an independent/ non-group councillor will be taken at the end of each 'cycle' of political groups' motions, listed in order of receipt</u> 						
New	<p>Proposal: Provide for further resourcing reports following certain motions</p> <p>Rationale: Whilst there is an opportunity for any of the statutory and other senior officers to comment on motions between publication of the agenda and consideration by the Council the resource implications of the motions are not always clear or fully explored at the time of the meeting</p>	New 11.18 (h)	<p><u>Implementation of any Council motion that has clear financial and/or resourcing implications will be subject to a report to the Cabinet setting out those implications.</u></p>						
Part 14	Other Committee procedures								
14.3	<p>Proposal: To increase the size of the General Purposes Licensing Committee to align its size with that of the Licensing and Gambling Acts Committee</p> <p>Rationale: To provide for consistent membership of the two committees for consistency of decision making, streamlining of training and to minimise confusion. This will enable groups to appoint the same members to both licensing committees, if desired</p>	14.3	<p>Quorum and substitutes</p> <p>General Purposes Licensing Committee</p> <table border="1"> <thead> <tr> <th>Size</th> <th>Quorum</th> <th>Substitutes</th> </tr> </thead> <tbody> <tr> <td>4 <u>15</u></td> <td>4 <u>5</u></td> <td>Not permitted</td> </tr> </tbody> </table>	Size	Quorum	Substitutes	4 <u>15</u>	4 <u>5</u>	Not permitted
Size	Quorum	Substitutes							
4 <u>15</u>	4 <u>5</u>	Not permitted							
Part 17	Call-in procedures								
	<p>Proposal: To increase the threshold for call-in to area planning committee to 6 members</p>		<p>Who can call in decisions and when do they have to be called in by?</p>						

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17.3	<p>To clarify that the publication of the weekly list is the trigger for call-in notification</p> <p>Rationale: To set a higher threshold for consideration in public by the area planning committees</p>	17.3	<table border="1"> <thead> <tr> <th data-bbox="1131 231 1433 343">Decision</th> <th data-bbox="1433 231 1639 343">Can be called in by</th> <th data-bbox="1639 231 2033 343">Deadline</th> </tr> </thead> <tbody> <tr> <td data-bbox="1131 343 1433 687">Decisions on planning applications (those seeking determinations within 5.3(a)) to be taken by the Head of Planning Services.</td> <td data-bbox="1433 343 1639 687">Any four <u>six</u> councillors</td> <td data-bbox="1639 343 2033 687">5pm on the last day of the period of 21-days starting with the day on which notice of the application is sent to councillors (<u>via the weekly planning list</u>)</td> </tr> </tbody> </table>	Decision	Can be called in by	Deadline	Decisions on planning applications (those seeking determinations within 5.3(a)) to be taken by the Head of Planning Services.	Any four <u>six</u> councillors	5pm on the last day of the period of 21-days starting with the day on which notice of the application is sent to councillors (<u>via the weekly planning list</u>)
Decision	Can be called in by	Deadline							
Decisions on planning applications (those seeking determinations within 5.3(a)) to be taken by the Head of Planning Services.	Any four <u>six</u> councillors	5pm on the last day of the period of 21-days starting with the day on which notice of the application is sent to councillors (<u>via the weekly planning list</u>)							
Part 18	Finance Rules								
<p>37</p> <p>New</p>	<p>Proposal: Add a requirement for Cabinet agreement of carry forwards valued over £10,000 with a delegation to the Head of Financial Services for those below this level</p> <p>Rationale: To remove the need for very minor carry forward sums to be considered by Cabinet (links to 9.6)</p>	18.10(d) x-ref 9.6(f)	<p>Budgetary Control</p> <p><u>(d) The Head of Financial Services can approve single carry forward sums up to £10,000. Any single carry forward of over £10,000 must be approved by Cabinet.</u></p>						
18.12	<p>Proposal: Amendments in relation to project approval</p> <p>Rationale: To reflect the updated processes</p>	18.12	<p>Project Approval</p> <p><u>Project ideas</u> Proposals may be added to the project pipeline register at any time following the completion of a Project <u>Proposal Brief</u> agreed by <u>submitted to</u> the Development Board.</p> <p><u>Funding may be requested for project ideas and proposals, of a capital nature, in order to carry out feasibility and or design stages to ensure the schemes are both feasible and to ascertain true costs for</u></p>						

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			<p><u>delivery. Allocation of any funding and approval of each of these stages within the agreed budget envelope is agreed by the relevant Executive Director. For projects that proceed...</u></p>
18.13 138	<p>Proposal: Amendments in relation to the capital programme</p> <p>Rationale: To reflect the updated processes</p>	18.13	<p>Monitoring of the Capital Programme</p> <p>The Capital Programme is approved as part of the Council's annual budget setting process. Overall monitoring of the Capital Programme will be undertaken by the Head of Financial Services in conjunction with Project Sponsors, Project Managers and relevant Head of Service. <u>the Development Board, which comprises Executive Directors and the Head of Financial Services (Section 151 Officer), Heads of Service (including the Monitoring Officer) and the Project Management Office.</u> <u>The monitoring will be carried out in conjunction with Project Sponsors and Project Managers.</u> <u>The Head of Financial Services will monitor and regularly report on the financial spend against the approved Capital Programme and regularly report on this to the Development Board.</u></p> <p>A <u>In respect of a Capital Programme monitoring report will be submitted by the Head of Financial Services to the Development Board as required, and to the Cabinet on a quarterly basis, setting out the projected outturn and progress of schemes including slippage, under and overspends together with any associated mitigating action.</u></p>
18.14(a)	<p>Proposal: Amend wording to reflect how prudential borrowing will be dealt with</p> <p>Rationale: To provide clarity that plans for prudential borrowing will be in line with the proposed financing of the capital programme</p>	18.14(a)	<p>Treasury Management</p> <p>(a) Treasury Management Strategy</p> <p>The Head of Financial Services will produce and submit the Treasury Management Strategy to the Cabinet for recommendation to Council.</p> <p>The Strategy will set out the Council's treasury plans for the next year (including any prudential borrowing plans <u>limits which are in</u></p>

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			line with the capital programme and proposed financing). The Strategy will include a list of the types of organisations the Council may borrow from and lend to and the maximum individual amounts it may borrow or lend. The Strategy must be agreed by Council.
18.15(d) 139	<p>Proposal: to include additional wording in relation to non-property leases</p> <p>Rationale: to provide clarity and consistency with a new sub-section between 19.21 and 19.22 (see below)</p>	18.15(d)	<p>Arranging leases</p> <p>Only the Head of Financial Services may arrange leases for non-property items.</p> <p><u>In respect of non-property items the Head of Financial Services may approve:</u></p> <ul style="list-style-type: none"> • <u>Lease arrangements</u> • <u>Hire of assets</u> • <u>Rental agreements</u> • <u>Contracts where the supplier uses assets to provide services to the Council; these may be explicit in the contract or implied due to the service being provided</u> <p><u>Additional procurement requirements apply to these arrangements (Part 19.22).</u></p>
18.16	<p>Proposal: to include the hiring of polling stations as an exception to the normal rules for ordering and paying for goods and services</p> <p>Rationale: to respond to a recommendation by the Council's Internal Auditor in relation to the hire of polling stations for elections</p>	18.16	<p>Ordering and Paying for Goods and Services</p> <p>The Head of Financial Services shall ensure that there are proper procedures and controls for ordering and paying for goods and services. Any new systems for orders or payments must be agreed by the Head of Financial Services. Heads of Service must ensure that:</p> <p>(a) Official orders (using the agreed corporate order form) are issued for all goods and services prior to receipt. Exceptions to this rule are:</p> <ul style="list-style-type: none"> • Utility bills • Subscriptions

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			<ul style="list-style-type: none"> • Grants • Refunds • Compensation payments • Payments of rent for privately leased properties • P2P Supplier Approved Exemption list as agreed by the Head of Financial Services • <u>Hire of polling stations</u>
18.22 140	<p>Proposal: Update to require due diligence and retention of records for new suppliers</p> <p>Rationale: The Constitution does not currently refer to conducting due diligence checks on new suppliers</p>	18.22 Additional provision	<p>Money Laundering</p> <p>.....</p> <p><u>Officers must complete and retain evidence of any due diligence checks carried out on new suppliers prior to any payments being made to the supplier. This must include a credit check where possible and the evidence retained for audit purposes. Should the credit check score fall below the current threshold set by the Head of Financial Services additional advice should be sought from the Head of Financial Services.</u></p>
18.23	<p>Proposal: To update the section on loans or guarantees to external organisations and to remove the cap of £250,000 on advances or loans to Council wholly owned companies authorised by the Head of Financial Services.</p> <p>Rationale:</p> <p>The risk of not having a cap is low given that these are loans and loan guarantees to wholly owned companies and within the Council's approved budget.</p> <p>Loans are part of day to day business for the companies and often need to be made at very short notice given the nature of the</p>	18.23	<p>Loans or Guarantees to external organisations</p> <p>The Head of Financial Services may authorise an advance of a loan or financial guarantee of up to £250,000 <u>a loan or financial guarantee of up to £250,000</u> to a Council wholly owned company.</p> <p><u>Any loan to a Council wholly owned company must be within the overall approved budget.</u></p> <p><u>There is no limit on the amount of any financial guarantee to a Council wholly owned company that the Head of Financial Services may approve.</u></p> <p>The Head of Financial Services may authorise an advance or a loans or financial guarantees of up to an outstanding balance of £250,000 <u>an advance or a loans or financial guarantees of up to an outstanding balance of £250,000</u> in aggregate to a company which is not wholly owned by</p>

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141	<p>commercial deals.</p> <p>Setting a cap which is too low could result in lengthy delays in approval whilst Cabinet and Council approval is sought and could compromise the business of the Company involved.</p>		<p><u>the Council or any other external organisation.</u></p> <p>The Head of Financial Services will only authorise a loan or loan guarantee to a Council wholly owned company to a company which is not wholly owned by the Council or other external organisation provided provision has been made <u>it is</u> within the Council's budget and that they are satisfied:</p> <ul style="list-style-type: none"> a) With the terms of the loan agreement; b) With the robustness of the company's business plan; and c) That state aid rules are not breached. <p>Loans advances and <u>financial guarantees</u> of over £250,000 and loans to a company which is not wholly owned by the Council or any other external organisation must have approval by the Cabinet and Council.</p>
New	<p>Proposal: The Council's tender documentation makes reference to the requirement for suppliers to have a Modern Slavery Statement but there is currently no reference to this in the Constitution</p> <p>Rationale: Due diligence to ensure that suppliers comply with the Modern Slavery Act 2016</p>	18.24 New Provision	<p>Modern Slavery due diligence</p> <p><u>Officers must carry out due diligence checks to ensure that they are satisfied that suppliers comply with the Modern Slavery Act 2016.</u></p>
Part 19	Contract Rules		
19.9	<p>Proposal: To include a 5% social value weighting for all procurement contracts below EU procurement thresholds.</p> <p>Rationale: To reflect a Cabinet decision</p>	19.9 New bullet at end	<p>Contracts must:</p> <p>....</p> <ul style="list-style-type: none"> • <u>all procurement contracts, which are below EU contract thresholds, must include a 5% social value weighting</u>

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19.11 19.11	<p>Proposal: To add a provision setting out the requirements on the Council when it commissions Oxford Direct Services Limited</p> <p>Rationale:</p> <p>The Corporate Management Team has agreed the parameters for tenders and quotes when the Council wishes to contract with Oxford Direct Services Limited and this should be reflected within the Constitution</p> <p>To provide clarity</p> <p>Add in as new 19.11</p> <p>19.11 Commissioning Oxford Direct Services Limited for one off capital schemes</p> <p>Oxford Direct Services Limited (ODSL) is a wholly owned council company and meets the requirements of Regulation 12(1) of the Public Contract Regulations 2015 (PCR 2015) commonly known as the “Teckal” exemption as follows:</p> <ul style="list-style-type: none">the Council is exercising a control over the company similar to that which it exercises over its own departments i.e. the Council demonstrably exercises a decisive influence over both strategic objectives and significant decisions of the company;more than 80% of the activities of the company are carried out in the performance of tasks entrusted to it by the Council;there is no direct private capital participation in ODSL – the company is wholly owned by the Council. <p>As such contracts may be awarded to ODSL without the need to comply with the full requirements of the PCR 2015.</p> <p>Officers should follow the appropriate process below according to the value of the proposed contract when commissioning ODSL to undertake one off capital schemes and where required ensure that their actions and decisions are recorded by an officer executive decision:</p> <p>(a) Contracts below (<) £10,000</p> <p>All work let to ODSL must have a detailed specification and be recorded in writing to ensure that proper records are kept.</p> <p>(b) Contracts above (>) £10,000 up to or equal to £75,000</p> <p>There should be a detailed specification and demonstration of a strong business need for the service or works provided by ODSL. The commissioning officer should be aware of the market price and conditions for such services and works. This can be shown by market quotes for the work (which may not be practical to obtain) or benchmarking information verified on</p>
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a regular basis and retained for audit purposes. In letting each separate contract the officer is responsible for documenting this, retaining those records for audit purposes and ensuring compliance with the Duty of Best Value and the avoidance of illegal state aid. Large contracts to be awarded should not be artificially disaggregated to avoid compliance with these requirements.

(c) Contracts above (>) £75,000 up to or equal to £150,000:

For contracts in this range the same criteria as in 19.11(b) above should apply in addition the commissioning officer may obtain and use the services of a Quantity Surveyor (QS) (using a framework).

(d) Contracts above (>) £150,000 – up to or equal to £1,000,000:

A detailed specification is required.

The contract must be justifiable for state aid purposes as meeting the Market Economy Operator Principle (“MEOP”). The Economic transactions carried out by a public body do not confer an advantage on the other party, and therefore do not constitute illegal aid, if they are carried out in line with normal market conditions.

This can be shown by:

- i) benchmarking the contractual terms and price being proposed against similar contractual offers made by third party contractors; and/or
- ii) using the services of independent advisers commissioned by the Council such as an external QS to assess the commercial price or price range for the contract before the contract is let.

(e) Value of contract above (>) £1,000,000

A detailed specification is required.

The use of benchmarking of other market intelligence held by the client service is appropriate where it exists.

The use of external QS services is mandated.

A formal tender evaluation process should be followed with a Cabinet report written to support the decision to award the contract.

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Amendments recommended to Council by the Cross Party Constitution Review Group.

	(Renumber remaining provisions as necessary)		
19.14	<p>Proposal: Reference to e-tendering is required</p> <p>Rationale: To properly reflect the Public contracts Regulations 2015</p>	19.15	<p>Tendering of contracts over £150,000</p> <p>If the total contract value is over £150,000 tenders must be sought. Tenders can also be sought for lower contract values. Tenders will be sought in accordance with the requirements of and the best practice as specified by the Public Contract Regulations 2015. If the contract value is over £150,000 the procurement team will advise of the various options available and which would be the best course of action and would assist with the tender process. Paragraphs 19.15, 19.16 and 19.17 set out the principal tendering methods but alternative methods <u>including e-tendering</u> may be used provided that they are compliant with the UK Public Contracts Regulations and the Head of Financial Services has given their express agreement. Paragraphs 19.20, 19.21, 19.22 and 19.23 apply to all tenders.</p>
144 New	<p>Proposal: To include a new sub-section on letters of intent</p> <p>Rationale: To provide clarity and to fill a gap in the rules</p>	<p>New sub-section</p> <p>Insert additional rule in between current 19.21 and 19.22</p>	<p><u>Letters of Intent</u></p> <p><u>A letter of intent is provided by an employer to a contractor; here the employer indicates an intention to enter into a formal contract for the works described and asks the contractor to start some work before formal contracts are agreed.</u></p> <p><u>In most circumstances, parties should not contract on the basis of a letter of intent and should avoid starting work on site under one. Letters of Intent which are used or drafted inappropriately have the potential to create future contractual difficulties and possibly even establish a contract when none was intended; both of which can have significant financial consequences.</u></p> <p><u>There may however be limited circumstances in which letters of intent can be a useful tool if drafted appropriately. This could be if</u></p>

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145			<p><u>items which have long lead in times where orders may reasonably need to be made before a formal contract can be finalised or completed.</u></p> <p><u>Letters of intent should, as a minimum, include the following:</u></p> <ul style="list-style-type: none"> • <u>A clear statement that the letter of intent is an interim agreement and that it will be superseded by the formal contract, with the type of contract stated</u> • <u>Set out when and what works are to commence, along with details of any conditions that may need to be satisfied before works start, for example, clearance of planning conditions or the requirement for some form of performance bond</u> • <u>A clear financial limit on the value of works/amount the employer is prepared to pay under the terms of the letter of intent</u> • <u>Set out any and all restrictions on site access, working hours or methods</u> • <u>State what the contractor will be paid if the letter of intent is terminated or if a formal contract is not completed.</u> <p><u>In all cases letters of intent must:</u></p> <ul style="list-style-type: none"> • <u>Not be used as a means to circumvent proper contractual or procurement arrangements</u> • <u>Be authorised by the relevant Executive Director in consultation with the Head of Law & Governance and the Head of Financial Services</u>
19.26	<p>Proposal: To review and update the subsection on acquiring and disposing of land and buildings</p>	19.27	<p>Acquiring and disposing of land and buildings</p> <p>(a) This rule applies to acquisitions and disposal of:</p>

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146	<p>Rationale:</p> <p>To streamline the process and remove the need for two reports to go to Cabinet to approve disposals</p> <p>To reflect that the Cabinet has no discretion in relation to disposals pursuant to right to buy legislation or statutory lease renewals under Part II of the Landlord & Tenant Act 1954</p>		<ul style="list-style-type: none"> • freeholds or leaseholds with a consideration or premium over £500,000 (<u>except for disposals pursuant to right to buy legislation</u>) • leases with a rental value over £125,000 per annum (<u>except statutory lease renewals under Part II of the Landlord & Tenant Act 1954</u>) • freeholds and leases for less than best consideration except when the acquisition or disposal is made: <ul style="list-style-type: none"> ○ under a legal duty ○ under a confirmed compulsory purchase order ○ under a scheme that has already been agreed by the Cabinet for acquiring or disposing of more than on piece of land or more than one building. <p>(b) Before any formal commitment is made to dispose of land a report must go to the Cabinet covering:</p> <ul style="list-style-type: none"> • the Council's present or most recent use of the land or buildings; • other uses the Council could make of the land or buildings • other uses a buyer could make of the land or buildings • the estimated value of the land or buildings • how the land or buildings will be disposed of. <p><u>Before any formal commitment is made to dispose of land the local ward members must be consulted.</u></p> <p>(c) Tenders for acquisition or disposal of property are not required to be submitted through the Corporate System but must be held securely until after the tender deadline and opened after the deadline by two Officers nominated by the Head of Housing Services. <u>nominated by the Executive Director for Development or the Regeneration and Major Projects Service Manager or an externally appointed agent</u></p>
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147			<p>(d) After a provisional agreement has been reached on an acquisition or disposal with the interested external party, another a report must go to the Cabinet covering the terms of the disposal or acquisition and how the land or buildings will be used should be submitted to either the Cabinet or for an Officer Executive Decision as appropriate. In respect of disposals any report must cover the following as appropriate:</p> <ul style="list-style-type: none"> • <u>the Council's present or most recent use of the land or buildings;</u> • <u>other uses the Council could make of the land or buildings</u> • <u>other uses a buyer could make of the land or buildings;</u> • <u>the estimated value of the land or buildings;</u> • <u>how the land or buildings will be disposed of; and</u> • <u>why any disposal is for less than best consideration and whether consent is needed from the Secretary of State.</u> <p>If a disposal is for less than best consideration, the report must say why and whether consent is needed from the Secretary of State.</p> <p>(e) Where the acquisition or disposal of a freehold or leasehold has a consideration or premium up to £500,000 or a lease has a rental value up to £125,000 per annum authorisation must be given by the relevant Head of Service and the Head of Law and Governance.</p> <p>(f) The documentation in relation to the acquisition or disposal of land and buildings will be executed by (or on behalf of) the Head of Law and Governance.</p>
New	<p>Proposal: Insert additional rule in between 19.26 and 19.27 to cover acquiring the use of assets through contracts</p> <p>Rationale: These arrangements affect the</p>	<p>New provision between current 19.26 and</p>	<p><u>Acquiring the use of assets through contracts</u></p> <p>a) <u>This rule applies to</u></p> <ul style="list-style-type: none"> • <u>Lease arrangements</u> • <u>Hire of assets</u>

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148	<p>Council's Capital Financing Requirement and need to be controlled. The details of all contracts which acquire the use of assets need to be documented so that the Council can take appropriate accounting action and meet audit requirements.</p>	19.27	<ul style="list-style-type: none"> • <u>Rental agreements</u> • <u>Contracts where the supplier uses assets to provide services to the Council; these may be explicit in the contract or implied due to the service being provided</u> <p>b) <u>Assets acquired or the use of assets acquired through contracts must be approved by the Head of Financial Services. (Part 18.15(d))</u></p> <p>c) <u>As a minimum the following information relating to the assets under or in the contract must be obtained during the procurement process to inform the decision by the Head of Financial Services:</u></p> <ul style="list-style-type: none"> • <u>Contract start date</u> • <u>Contract end date</u> • <u>Option to purchase details</u> • <u>Rental amount</u> • <u>Initial one off payments</u> • <u>Payment dates and frequency</u> • <u>Details of payment penalties</u> • <u>Total capital element</u> • <u>Total interest element</u> • <u>Interest rate charged</u> • <u>Useful economic life of asset</u> • <u>Break clause details</u> • <u>Profile of lease payments (fixed and variable)</u> <ul style="list-style-type: none"> ○ <u>Details of how future potential rentals will increase and on what basis</u> ○ <u>Whether rentals are fixed or index linked</u> • <u>Details of non-lease components included in the rental</u> <ul style="list-style-type: none"> ○ <u>Details of any service elements</u> • <u>Residual value</u> • <u>Information on return condition of asset</u>
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			<ul style="list-style-type: none"> • <u>Any notice period</u>
Part 24	Planning Code of Practice		
24.11	<p>Proposal: Change required consequent on 5.3(b) 4th bullet point to reflect that not all planning applications made by the Council will be determined by a planning committee</p> <p>Rationale: For consistency</p>	24.11	<p>Planning applications by the Council</p> <p>Applications by the Council will not get special treatment. <u>They will be subject to the same rules as all other applications.</u> ‡The Council will decide them on planning grounds and will not take in to account how it could gain from giving or refusing permission. Council applications will always be decided by an area planning committee or if called in, the planning review committee, not by the Head of Planning Services.</p>

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