



Council – 23 April 2012

Other Changes to the Constitution

Purpose of report

To present for consideration by Members three changes to the Constitution. The first relates to the appointment of Heads of Service via the Officer Employment Procedures whilst the second and third propose changes to the Scheme of Delegation in relation to the agreement of materials conditions for planning applications and the formalisation of operational financial instructions.

Attachment(s)

Appendix A - Scheme of Delegation – new section 4.6 A - Operational Financial Decision Procedures

1.0 Background

1.1 Recent decisions and reviews have highlighted three areas of the Constitution that should be updated to enable the Council to operate with clear and relevant guidance in relation to aspects of its operation. The background to these is outlined in the sections below together with the proposed changes.

2.0 Recruitment of Heads of Service

2.1 Currently Part 4.7 paragraph 6 of the Constitution allows Heads of Service to be appointed following interviews which do not involve any Members. At the Council meeting on 28 March, during consideration of the Pay Policy, it was proposed that the arrangements should change to include councillors on the interview panel.

2.2 It is therefore proposed that paragraph 6 should be amended as follows:

6 Appointment of Heads of Service

Where a post has been advertised as provided in paragraph 2(b), ~~the Strategic Management Team~~ **a panel of up to six councillors together with the relevant council Chief Officer(s)** on behalf of the Council shall –

- (a) interview all qualified applicants for the post, or
- (b) interview those included on a short list of such qualified applicants,
- (c) Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with paragraph 2(b).

The councillors will be drawn from the Personnel Sub-Committee and the Chairman and Vice Chairman of any committee that is regularly attended by the relevant Head of Service

2.3 It was also proposed that the salary scale, including agreement of initial salary, for Chief Officers and Heads of Service should be set by Members. (At present these are set by the Chief Executive for Heads of Service). The scale for a post should be included in the original advertisement and can thus be agreed as part of the advertisement process described in paragraph 2.

2.4 It is therefore proposed that paragraph 2 (a) of Part 4.7 be amended as follows:

Where the Council proposes to appoint a Chief Officer **or Head of Service** and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- (a) draw up a statement specifying:
 - i) the duties of the officer concerned (the job description);
 - ii) any qualifications or qualities to be sought in the person to be appointed (the person specification) and:
 - iii) the salary scale for the post**
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
- (c) make arrangements for a copy of the statement mentioned in paragraph (i) to be sent to any person on request.

2.5 However agreement of the starting salary may be a matter of negotiation once a post has been offered. It is therefore proposed that this should be delegated to the Chief Executive, in consultation with the Chairman of the Personnel Sub-Committee, in order that the appointment process is not unduly delayed. It is therefore proposed that an additional paragraph be inserted as part of paragraph 6 which states that:

The starting salary for Heads of Service will be agreed by the Chief Executive in consultation with the Chairman or Vice Chairman of the Personnel Sub-Committee.

3.0 Agreement of Materials Conditions for Planning Applications

3.1 The Development Control Committee recently reviewed the process by which a materials condition (roof and walls) was agreed by officers. It proposed that where a planning application is brought to Committee for determination, in future, where an application has been taken to Committee for decision, any change in proposed materials from those in the application which significantly impact on the appearance of the development, would be taken by officers in consultation with the chairman or vice-chairman and appropriate ward member(s).

3.2 It is therefore proposed to add a new paragraph 1 (c) to part 3.2 (Scheme of Delegation) as follows:

Function and Legislation

1(c) To agree materials conditions (for roofs or walls) which differ from those in the applications and which significantly impact on the appearance of the development where the determination was made by Development Control Committee

Delegation and Provisions

Executive Director, Head of Planning Services or Development Control Manager in consultation with the Chairman or Vice Chairman of Development Control Committee and the relevant ward councillor(s).

4.0 Operational Financial Decision Procedures

4.1 The first version of the current constitution was originally adopted in 2001, following significant changes required by the Local Government Act 2000. However the version of Financial Procedure Rules included was fundamentally different from what had gone before. It appears from the minutes of the Modernisation Working Party at the end of August 2001 that new advice from CIPFA was produced at the point at which adoption was imminent. As a result the highly detailed rules in force until September 2001 (ie effectively part of the old council standing orders) was not included as part of the constitution although it was envisaged that the rules would continue to be operated by the Chief Finance Officer until amended. These rules include procedures for writing off of debts up to a certain limit and the process for disposing of assets like surplus

office equipment. These rules have continued to be used by Finance staff.

- 4.2 Confirmation that it was intended at the time that the more detailed rules were to continue to be used as instructions by the Chief Finance Officer (CFO) by reference in the Financial Procedure Rules (Part 4.5) para 1.4 which states:

The implementation of the more detailed and technical financial procedure, instructions, advice and guidance, that underpin the regulations, is managed by the Chief Finance Officer. The key financial procedures are issued to Members and officers with financial responsibilities, and are available for inspection, but these do not form part of the formal Constitution of the Council.

There is a further reference to the procedures in paragraph 6.3.2 which give the CFO authority to approve procedures for writing off debts.

- 4.3 Having now reviewed these instructions the view of the Chief Finance Officer and Monitoring Officer is that some elements should be included as an additional section in the Constitution, most appropriately positioned next to the Financial Procedure Rules (Part 4.6) within the Constitution, with a reference to the delegations contained within as part of the Scheme of Delegation (Part 3.2)

- 4.4 The proposed new section can be found at Appendix A. For the sake of completeness, the parts of the rules which have been superceded by other parts of the Constitution are shown as well (with the lines scored through). The proposed amendment to the end of Section 3.2 is as follows:

Additional delegated powers to the Chief Finance Officer are outlined in Part 4.6 (Financial Procedure Rules) and Part 4.6A Operational Financial Decision Procedures

- 4.5 It is proposed that Part 4.5 paragraph 1.4 should be amended as follows:

1.4 The implementation of the more detailed and technical financial procedure, instructions, advice and guidance, that underpin the regulations, is managed by the Chief Finance Officer. The key financial procedures ~~are issued to~~ ***in relation to*** Members and officers with financial responsibilities, ~~and are available for inspection, but these do not form part of the formal Constitution of the Council~~ ***can be found at Part 4.6A of this constitution.***

5.0 Equality and Diversity Implications

- 5.1 There are no known equalities issues arising from the changes proposed in this report.

6.0 Legal Implications

- 6.1 There are no known legal implications arising from this report

7.0 Risk Management

- 7.1 There are no significant risks arising from this report. Indeed the proposals in section 4.0 reduce the risk of inappropriate decisions by officers.

8.0 Financial Implications

- 8.1 This report strengthens the financial governance arrangements in the Council. There are no other known financial implications arising from this report.

9.0 Corporate Outcomes

- 9.1 The following outcome is applicable:-
- Effective Management

10.0 Recommendations

10.1 Council is asked to

(1) approve the changes proposed as follows:

- a) the addition of the wording in paragraphs 2.2, 2.4 and 2.5 to the Council's Constitution as proposed by the Policy and Resources Committee,
[Reason: The changes will improve the transparency and involvement of Members in key officer appointments]
- b) the additional wording in paragraph 3.2 as proposed by the Development Control Committee
[Reason: to enable Development Control Committee to retain control of the visual appearance of developments determined by it]
- c) the additional wording in paragraphs 4.4 and 4.5 and the new section 4.6a (in Appendix A) in relation to operational financial decisions in order to record and make transparent the council's procedures for operational financial decisions
[Reason: To have an clear and complete set of procedures for operational financial decisions]

- (2) agree that the Operational Financial Decision Procedures (in Appendix A) be reviewed annually by the Chief Finance Officer; that any changes be reported to the Policy and Resources Committee and Council for approval; and that consequential changes be made to the Constitution and Terms of Reference of Committees to reflect these responsibilities.
[Reason: To ensure Operational Financial Decision Procedures are kept up to date]

| | | | | | |
|---|--|-----------------------|--|----------------------|--|
| Legal | Power: Local Government Acts 1972 and 2000; The Local Authorities (Alternative Arrangements (England) Regulations 2001 | | | | |
| | Other considerations: Council's Constitution | | | | |
| Background Papers: None | | | | | |
| Person Originating Report: Sharn Matthews, Executive Director and Monitoring Officer smatthews@east-northamptonshire.gov.uk Glenn Hammons, Chief Finance Officer ghammons@east-northamptonshire.gov.uk | | | | | |
| Date: 12/04/2012 | | | | | |
| CFO 12.4.12 | | DMO 12.4.12 | | CX 12.4.12 | |

(Committee Report Normal Rev. 22)

Part 4.6A - Operational Financial Decision Procedures

Covered by Article 11

- ~~1 (a) The Strategic Director – Corporate and Finance is appointed the Council's section 151 officer under the Local Government Act 1972. The Financial Services Manager will act as the Responsible Financial Officer in the absence of the Strategic Director. Reporting to the Chief Executive he shall be responsible for all the financial and accountancy work of the Council and for the supervision of the whole of the financial function of the Council, and every facility shall be afforded him to enable him to carry out these duties.~~
- ~~(b) All references to the Strategic Director – Corporate and Finance in Standing Orders shall include such officers of the Council's Financial Services Division authorised by him to undertake specified functions.~~

Internal Audit – covered by Part 4.6 para 5.4.4.5.4.7

- ~~2 (a) An adequate and effective internal audit under the independent control and direction of the Financial Services Manager must be maintained with an examination of accounting, financial and other operations of the Council.~~
- ~~(b) The Financial Services Manager shall~~
- ~~(i) have authority to enter at all reasonable times on any Council premises or land;~~
 - ~~(ii) have access to all records, documents and correspondence relating to any financial or other transaction of the Council;~~
 - ~~(iii) require and receive such explanations as are necessary concerning any matter under examination;~~
 - ~~(iv) require any employee of the Council to produce cash, stores or any other property under his control;~~
 - ~~(v) require notification immediately by a responsible officer of the department concerned of any circumstances which may suggest the possibility of irregularity affecting cash, stores or other property of the Council.~~

Estimates - Covered by Sections 3.2 & 3.6 of Part 4.6

- ~~65. 1. (a) Each Committee shall submit to the Resources Committee a programme of capital and revenue estimates for such period in such form and by such dates as that Committee may require. That Committee shall submit to the Council by 11 March each year estimates showing the probable total financial requirements of the Council for the ensuing financial year.~~
- ~~(b) The detailed form and revenue estimates shall be determined and the Financial Services Manager, within the general direction of the Resources Committee and Strategic Director – Corporate and Finance shall undertake their preparation. In consultation with other Strategic Directors the Financial Services Manager shall be responsible for submitting the same to the appropriate Committee.~~
- ~~(c) Any proposal to a Committee which would involve the incurring of expenditure shall be accompanied by a report of the Strategic Director concerned~~

~~indicating the sufficiency or otherwise of the financial provisions therefor in the revenue or capital budget.~~

- (d) The inclusion of items in approved revenue estimates and in capital estimates for schemes or items costing in total under £25,000 shall constitute authority to incur such expenditure, subject to any reservations by the Council.
- (e) ~~No spending Committee shall incur expenditure on any new service or reduce expenditure by withdrawing any service, unless a specific report thereon has been considered and approved by the Resources Committee. See para 3.6.2~~
- (f) For every ~~scheme~~ **proposal** involving capital expenditure of £25,000 or more, the **Policy and Resources** ~~spending Committee~~ shall receive a report on the proposals ~~from the relevant Strategic Director~~ **prepared** in conjunction with the ~~Financial Services Manager, Chief Finance Officer~~ such report to show where appropriate:-
 - (i) The estimated total capital cost of the proposals detailed over each financial year.
 - (ii) The estimated annual expenditure chargeable to revenue in each financial year.
 - (iii) Any saving in existing expenditure.
 - (iv) Any additional income or reduction of existing income.
 - (v) **The funding source for the proposal.**
 - (vi) Any other relevant information (**including risks associated with the proposal and its impact on service provision**).

The Policy and Resources Committee will evaluate the proposal and will resolve to recommend to Council for consideration if it falls outside the budgetary framework agreed annually. Supports para 3.7.1

Budgetary Control & Virements

66. (a) ~~Where it appears that the amount of any main head of expenditure may be exceeded, or any head of income not be reached, by what the Financial Services Manager considers to be a significant amount, it shall be his duty after consultation with the Strategic Director concerned to inform the spending Committee. Covered by above and para 3.94 of part 4.5~~
- (b) ~~In the event of any Committee proposing to incur any expenditure additional to the approved estimate for the current year, or making to the Council any recommendation which will result in an annual or recurrent expenditure (other than for normal maintenance), a report as to such proposal shall be submitted to the Resources Committee, who shall report to the Council as to the financial effect of such proposal. (Covered by above)~~
- (c) Amounts provided under the main service heads of the annual revenue estimates shall not be directed to other heads by the Strategic **Executive** Director or Committee concerned except:-
 - (i) within a service head or between main service heads of a Committee where the amount does not exceed £5,000 **£10,000** and with the approval of the **Chief Finance Officer** ~~Financial Services Manager~~;

- ~~(ii) within a service head or between main service heads where the amount is between £5,000 and £10,000 with the approval of the Strategic Director – Corporate and Finance~~
 - ~~(iii) within a service head or between main service heads of a Committee where the amount is between £10,000 and £25,000 with the approval of the Committee concerned;~~
 - (iv) in all other cases with the approval of the **Policy and** Resources Committee.
- (d) A Committee may transfer up to £50,000 between schemes within its approved capital programme subject to it not exceeding its total capital budget. The **Policy and** Resources Committee must approve any other variation to a Committee's capital programme.

Quotations Replaced by Part 4.6 Procurement Procedures

~~67. Quotations shall be obtained, wherever possible in all cases where the cost of any work, or any goods or materials, is not covered by these Orders for Works and Goods.~~

Orders for Works and Goods

~~68. (a) Except in an extreme emergency, Orders shall not be issued for goods and services unless the cost is covered by an approved annual or supplementary estimate or by a special financial provision.~~

~~(b) The Chief Officer of each department shall be responsible for all orders issued from that department.~~

~~(c) Official orders shall be issued for all work, goods or services to be supplied to the Council, except where a formal contract is required by Standing Orders, and shall be in writing and indicate clearly the nature and quality of the work or service required and any contract or agreed prices. Supplies of public utility services, for periodical payments such as rent and rates and for petty cash purchases do not require official orders.~~

Accounts and Payments

69. (a) All accounts for payment by the Council shall be duly certified by, or on behalf of the heads of the respective departments, as to quantities and prices charged and quality of materials purchased and passed as soon as possible to the ~~Financial Services Manager~~ **Chief Finance Officer** for payment. The **Policy and** Resources Committee may require a detailed check to be carried out on a randomly selected sample of accounts and the ~~Financial Services Manager~~ **Chief Finance Officer** shall report thereon to that Committee. The Committee shall satisfy itself that the accounts are in respect of approved expenditure and have been duly examined and certified by the appropriate officers.

(b) The **Chief Executive, Executive Director Strategic Director or Head of Service** ~~of~~ for each department shall as soon as possible after 31 March in each year, give to the **Chief Finance Officer** ~~Financial Services Manager~~ details of all accounts outstanding relating to that department for the previous year and, when such accounts are subsequently certified for payment, identify them accordingly.

- (c) All cheques for the payment of money out of the Council's accounts shall bear the facsimile signature of the **Chief Finance Officer** ~~Strategic Director – Corporate and Finance~~. In addition, cheques for £50,000 or more must bear the additional signature of **one of the other authorised bank account signatories** the ~~Chief Executive, Strategic Director – Policy and Strategy, Strategic Director – Community Services, or Senior Accountant~~. In the event of it becoming necessary to use manual signatures, the Financial Services Manager shall be authorised to instruct the bank to accept two signatures from the **authorised bank signatory list**. The ~~Chief Executive, Strategic Director – Corporate and Finance, Financial Services Manager (ENCOR), or Senior Accountant~~.
- (d) All non-cheque payments are to be signed or authorised by two of the **authorised bank signatories** following:- ~~The Chief Executive, Strategic Director – Corporate and Finance, Financial Services Manager, Senior Accountant, and Principal Auditor~~.
- (e) ~~The Strategic Director – Corporate and Finance~~ **Chief Finance Officer** shall be authorised to make temporary arrangements for the payment of monies in the event of his absence or the absence of the Financial Services Manager.
- (f) **The authorised bank signatories shall consist of Chief Finance Officer, Deputy Chief Finance Officer, Head of Resources & OD and Group Accountant (ENCOR).**

Contract Payments - *Some of this is summarised in section 5 Part 4.6 but detail needs to remain.*

- 70. (a) The Financial Services Manager (ENCOR) shall be informed as soon as possible of all contracts, agreements, awards or other instruments involving the payment or receipt of money on behalf of the Council.
- (b) Payments to contractors on account of contracts shall be authorised only on a certificate signed by the ~~Strategic~~ **Executive Director, Chief Finance Officer** or other duly authorised officer or person showing the total amount of the contract, the value of the work executed to date, retention money, amount paid to date and the amount now certified, less any amount due by way of liquidated damages.
- (c) Every variation on a contract for building, civil engineering or constructional works shall be authorised in writing by the ~~appropriate Strategic~~ **Executive Director, Chief Finance Officer** or other duly authorised person or other responsible officer nominated by him in writing for that purpose.
- (d) Any variation, the net cost of which would result in an increase in the amount of an accepted tender or estimate, shall be reported to the appropriate Committee as soon as possible by the ~~Strategic~~ **Executive Director, Chief Finance Officer or Head of Service** having responsibility for the contract.
- (e) The final certificate on a contract under seal (or accepted estimate) shall not be issued until the Financial Services Manager (ENCOR) shall have examined the account.
- (f) Upon the completion of any building, civil engineering or constructional works exceeding £25,000 in value, a report shall be submitted to the appropriate Committee by the ~~Strategic~~ **Executive Director, Chief Finance Officer or Head of Service** concerned in consultation with the Financial Services Manager (ENCOR) on the total costs of the scheme and the original estimate therefor and any variations relating to prime cost sums.

Income - Collection and Banking

71. (a) All monies received on behalf of the Council shall, without delay or deduction, either be paid to the Financial Services Manager (ENCOR) or, subject to his instructions, be banked in the Council's name.
- (b) The ~~Strategic~~ **Executive Director, Chief Finance Officer or Head of Service** of each department shall furnish such particulars of charges for work done, goods supplied or services rendered on behalf of the Council and of amounts accruing due, as the Financial Services Manager may require, in order to ensure that there is prompt recording of all sums receivable by the Council.
- ~~(c) Excusal of debts in excess of £750 (£200 in respect of Housing rents) due to the Council shall require the authorisation of the responsible Committee. The Financial Services Manager shall have authority to write off debts of up to (£200 in respect of Housing rents) and the Strategic Director – Corporate and Finance between £300 and £750. All write offs should be reported to Members through the Councillors' Information Circular.~~
- (c) **Excusal of debts due to the Council shall require the following authorisation:**

| Type of Debt | Executive Directors & Head of Service | Chief Finance Officer | Relevant Committee |
|---|---------------------------------------|-----------------------|--------------------|
| Business Rates / National Non Domestic Rates | Upto £1,500 | Upto £25,000 | Above £25,000 |
| All other debts (incl. Council Tax & Housing Benefit) | Upto £1,500 | Upto £5,000 | Above £5,000 |

All debt write offs should be reported to Policy & Resources Committee as part of the regular financial reporting process.

- (d) All receipt forms, tickets and other documents of a similar nature shall be approved by the Financial Services Manager (ENCOR).

~~Borrowing and Investments~~ Covered by Treasury management practices in Part 5.4

- ~~72. The Council has adopted CIPFA's Code of Practice for Treasury Management, and Treasury Management functions, including the borrowing and lending of money, shall be governed by the Treasury Management Policy Statement approved by the Council under this Code.~~

Disposal of Land, Property and Surplus Assets

73. (a) All land and property except for **former** Council houses sold to tenants, ~~houses built for sale or other property likely to exceed £2,000~~ **£5,000** in value, which have been declared surplus to requirements by the **Policy and Resources Committee** must be sold either by auction with a reserve price, or by competitive tender, unless the Council specifically determines otherwise.

- (b) Before inviting tenders or instructing an auctioneer for the sale of land or property, a valuation shall be obtained from the District Valuer or an independent qualified valuer, and in the case of a sale by auction this valuation shall be the reserve price.
- (c) Competitive tender shall normally dispose of all other surplus assets unless the Chief ~~Executive~~ **Finance Officer** determines otherwise in a particular case.

Salaries and Wages

74. (a) ~~The Personnel Officer~~ **All Heads of Service** shall, in respect of salaried staff, notify the **HR Manager** ~~Financial Services Manager~~ as early as possible of all appointments, dismissals, resignations, transfers and changes in remuneration (other than normal increments).
- (b) ~~Strategic Directors shall notify the Financial Services Manager weekly of all absences from duty other than for annual leave of employees within their respective departments.~~
- (b) ~~The Strategic Director of the department concerned or Personnel Officer~~ **HR Manager** shall provide ~~the Financial Services Manager~~, with all information necessary to maintain records of superannuation, income tax and national insurance liability.
- (c) The payment of all salaries, wages, pensions, compensation or other emoluments to employees or former employees shall be made under the control of ~~the Financial Services Manager~~.
- (d) The maintenance of PAYE and National Insurance records shall be the responsibility of ~~the Financial Services~~ **who Manager and he is are** authorised to make and notify decisions on behalf of the Council in respect of superannuation regulations. *Need to cross reference with para 6.4 of part 4.5*

Insurances

75. (a) ~~The~~ **Head of Resources and OD** ~~Financial Services Manager~~ shall effect all insurance cover and prescribe procedures for claims.
- (b) ~~Chief Officers~~ **All officers** shall give prompt notification to the **Head of Resources and OD** ~~Financial Services Manager~~ the extent and nature of all new risks, properties or vehicles that require being insured and any alterations affecting existing insurances or insurable risks.
- (c) ~~Chief~~ All Officers shall notify immediately the **Head of Resources and OD** ~~Financial Services Manager~~ in writing of any loss, liability or damage or any event likely to lead to a claim being made by or against the Council.
- (d) All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance policy.

Property

76. (a) Within the level of resources available the **Head of Resources and OD** ~~Strategic Director~~ ~~Community Services?~~ shall maintain a terrier of all properties owned by the Council recording the holding Committee, purpose for which held, location, extent and plan references, purchase details and ~~except for Council houses, particulars of tenancies and licences granted.~~

- (b) The Chief Executive shall have custody of all title and mortgage deeds under secure arrangements.

Stores

- 77. (a) The Strategic **Executive** Director, **Chief Finance Officer or Head of Service** of each department shall be responsible for the care and custody of stores in his department and shall have all such stores checked independently of the storekeeper at least on one occasion in each financial year.
- (b) Stores shall not be held in excess of reasonable requirements.
- (c) Adjustments to write-off deficiencies over £50 in value shall be subject to the approval of the Financial Services Manager (ENCOR). **Policy and Resources Committee** will be required to write-off sums over £1,000.
- (d) Competitive tender shall dispose of surplus or obsolete stores unless the Chief Executive decides otherwise in a particular case.

Inventories (See Assets)

- 78. Inventories of the Council's furniture, fittings, equipment and machinery shall be kept and checked on at least one occasion in each financial year by the **Executive Strategic Director or Head of Service** of the department concerned. (Individual items with a value of £100 or less need not be included therein).

Statement of Accounts

- 79. As soon as practicable after the close of each financial year, the **Chief Finance Officer Strategic Director — Corporate and Finance** shall submit to the **Policy and Resources Committee** a statement of its finances for the last financial year for approval **in accordance with statutory timescales**. The Financial Services Manager (ENCOR) will make appropriate arrangements to prepare the accounts and **Strategic Executive Directors and Heads of Service** must forward the appropriate information within the agreed time-scales.

Gifts and Hospitality Covered in respective Officer and Cllr codes

- ~~80. (a) No officer may accept any gift, and any offer of such must be reported to the Chief Executive.~~
- ~~(b) Each department shall maintain a record of hospitality received and the circumstances pertaining thereto.~~

~~Wait for Code of Conduct under S. 82, LGA 2000~~