

## COUNCIL CONSTITUTION REVIEW 2023

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### 1.0 INTRODUCTION

This report considers proposed changes to the Council Constitution.

The Council generally reviews the Constitution annually and various changes are proposed which take into consideration decisions agreed by Council since the last review.

An overview of key changes is provided at Appendix 1.

### 2.0 RECOMMENDATIONS

2.1 The Council is invited to agree to the adjustments to the Constitution as follows:

- a) To update Part A of the Constitution as set out in Appendix 1.
- b) To amend Part C, Scheme of Delegations as set out in Appendix 1.
- c) To amend Part D, Financial and Security Regulations, to incorporate changes as set out in Appendix 1.
- d) To note the updated Procurement Manual as previously agreed by Council in September 2022 has been inserted at Part E, Contract Standing Orders and as set out in Appendix 1.
- e) To amend Part F, Ethical Framework as set out in Appendix 1.
- f) To amend Part G, Scheme of Approved Duties as set out in Appendix 1.

### 3.0 DETAIL

3.1 The proposed changes to the constitution are driven generally by incorporating updates in respect of decisions previously agreed by Council as set out in Appendix 1.

3.2 In addition to the annual review amendments to the Constitution will be considered in the event of any potential alterations to operational and procedural requirements.

## **4.0 CONCLUSION**

- 4.1 The proposed changes will address issues arising since the last revision in September 2022.
- 4.2 Council is recommended to agree the adjustments to the Constitution as outlined in Appendix 1 to ensure the Constitution remains up-to-date and facilitates the operation of regulatory functions.

## **5.0 IMPLICATIONS**

- 5.1 Policy – These revisions will keep the Constitution up to date.
- 5.2 Financial - None
- 5.3 Legal - None
- 5.4 HR - None
- 5.5 Fairer Scotland Duty - None
- 5.5.1 Equalities – protected characteristics – The provisions have no adverse impact in terms of equality issues and have the potential to enhance accessibility in respect of remote participation proposals.
- 5.5.2 Socio-economic Duty - None
- 5.5.3 Islands - None
- 5.6 Risk - None
- 5.7 Customer Service - None

Douglas Hendry - Executive Director with responsibility for Legal and Regulatory Support

**Policy Lead - Councillor Alastair Redman**

21 August 2023

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## **APPENDICES**

Appendix 1: Review of Constitution 2023 – Summary of Key Changes

## Review of Constitution 2023 – Summary of Key Changes

### APPENDIX 1

#### For discussion

Reference – Current constitution Page & Paragraph detail		Proposed amendment
Part A The Constitution	Page 6	Delete 'Annual Service Plans' Policy Framework requires update e.g. it still references: The Children and Young Services Plan <b>2017-2020</b> .
Part C Scheme of Delegation	Page Various	Delete reference to Customer and Support Services, and replace with Customer Support Services.
Part C Scheme of Delegation	Page 95	Add Financial Services to the list of responsibilities, which currently reads: The Executive Director with responsibilities for:- Customer Support Services Road and Infrastructure Services Development and Economic Growth
Part C Scheme of Delegation	Page 70  Para 2.4.2	Area Committees  Move the words “within the area” to appear immediately after the word “buildings”
Part C Scheme of Delegation	Page 73  Para 2.5.5	PPSL  Add the words “not otherwise delegated” at the end of that paragraph
Part D Financial and Security Regulations	Page 113 Section 3.4  Page 113 Section 3.5	Remove reference to Service Plans and replace with “.....arrangements for the preparation of the Revenue Budget.”  Remove reference to Service Plans and replace with “Each year draft estimates of expenditure and income.....”
Part D Financial and Security Regulations	Page 118 Section 5.1	Delete reference to “corporate asset management strategy”  And replace with :  “Capital Investment Strategy”
Part D Financial and Security	Page 128	All reference to “Head of Customer and Support Services” in the Salaries and Wages section should be changed to “Head of Financial Services”.

Regulations		
Part D Financial and Security Regulation	Page 128	<p>Para 7.20 reference to the payment of salaries to be changed from Head of Customer Support Services to Head of Financial Services.</p> <p>Para 7.23 – update to reflect that expenses are to be agreed with the Head of Financial Services and the Head of Customer Support Services.</p>
Part D Financial and Security Regulations	Page 137	<p>Appendix 2 refers to Anti-Fraud strategy this should now be the Anti-Fraud, Corruption and Bribery Strategy and references throughout the document to Fraud and Corruption are to be updated to include the word Bribery, where appropriate to reflect that terminology.</p> <p>Remove reference to Executive Director of Customer Services as Monitoring Officer to Executive Director with Responsibility for Legal and Regulatory Support as Monitoring Officer and so throughout the document as appropriate.</p> <p>Add reference to the S95 officer in place of the Head of Financial Services throughout the document as appropriate.</p>
Part D Financial and Security Regulations	Page 138	<p>Para 2.4 – add new sentence to state - To facilitate this, Council wide training is available through the online training portal LEON.</p>
Part D Financial and Security Regulations	Page 139	<p>Para 4.2 – States - We must regularly review and update our written rules. To be changed by adding at the end “and to such end our review of these procedures will be no later than every three years.”</p> <p>Para 4.3 – States - Managing the risk of fraud is the responsibility of the Council’s Strategic Management Team. Executive Directors must make sure that suitable levels of internal check are included in working procedures, particularly financial procedures. It is important that duties are organised so that no one person can carry out a complete transaction without some form of checking process being built into the system.</p> <p>Add, after Executive Directors “and their Heads of Service”</p>
Part D Financial and Security	Page 143	<p>Para 2.1 – Add in new reference to Bribery as follows “Bribery is defined as:</p>



		<p>Supplementary Guidance Note SGN 17 sets out how PCCMT can support the implementation of a consistent contract management process across the Council and achieve objectives</p> <ul style="list-style-type: none"> <li>• To build good working relationships between parties;</li> <li>• Proactively anticipating future risks and appropriately dealing with them;</li> <li>• Aiming for continuous improvement in performance over the life of the contract</li> <li>• Identifying and driving best value over the life of the contract</li> <li>• Delivering community benefits for our local community</li> </ul> <p>Following agreed processes and using the related templates where appropriate and working with the PCCMT will enhance officers' ability to manage Suppliers and deliver contract objectives on time and within budget.</p>
	<p>At page 6 of 26 Section 1.8</p> <p>At the top of page 7 of 26 At the bottom of the second table marked "works" Add the following footnote</p> <p>At page 22 of 26 at section 2.12</p>	<p>Revisals proposed to the Procurement Manual</p> <p>At the bottom of the first table setting out thresholds add the following footnote</p> <p>**</p> <p>From August until February 2024 for Property Services <u>only</u> the lower threshold for supplies and services shall be increased to £5,000 – and Property Services shall work with PCCMT to ensure relevant controls to ensure best value can be demonstrated.</p> <p>***</p> <p>From August until February 2024 for Property Services only the lower threshold for works shall be increased to £10,000 – and Property Services shall work with PCCMT to ensure relevant controls to ensure best value can be demonstrated.</p> <p>Add the words "and Supplier "after Contract and before Management in the heading and (CSM) at the end of the heading and add new section 2.12 as follows</p> <p>"We are all experiencing increasing demands on our services as budgets are reducing and the Council needs to deliver significant savings as well as improving the quality and sustainability of what we provide. Procurement, and improved purchasing outcomes, are key in assisting the Council in delivering these objectives. Contract and</p>

		<p>supplier management (CSM) is a key component in ensuring that procured services provide best value for all stakeholders. The PCCMT has been rolling out a Project aimed at embedding CSM across all commercial contracts used by Services to ensure that this key component is met and best value achieved. To ensure effective contract management and compliance with Part E of the Council's Contract Standing Orders a Contract Manager /Owner should be identified for every contract tendered or awarded</p> <p>Supplementary Guidance Note SGN 17 sets out how PCCMT can support the implementation of a consistent contract management process across the Council and achieve objectives</p> <ul style="list-style-type: none"> <li>• To build good working relationships between parties;</li> <li>• Proactively anticipating future risks and appropriately dealing with them;</li> <li>• Aiming for continuous improvement in performance over the life of the contract</li> <li>• Identifying and driving best value over the life of the contract</li> <li>• Delivering community benefits for our local community</li> </ul> <p>Following agreed processes and using the related templates where appropriate and working with the PCCMT will enhance officers' ability to manage Suppliers and deliver contract objectives on time and within budget.</p>
Part F Ethical Framework	Employee Code of Conduct  Para 15.3	Employee Code of Conduct - You may make use of the internet and email services as part of your work – insert 'in accordance with the IT Acceptable Use Policy'.
Part G  Scheme of Approved Duties		<p>Paras 8 and 9 to be amended after the words "Policy Lead" in line 2 of para 8 and the word "Committee" in line one of para 9 to read</p> <p>At any meeting, conference, or other event which the Monitoring Officer, in consultation with the Chief Executive, considers to be connected with the Council or its area, or local government business and where in their view it is in the interests of the Council to attend.</p>
Part G  Scheme of Approved Duties	Under "Qualifications" At para 4	The words "European Union" are deleted and replaced with "Scotland".