

<b>Report to:</b>	Council	<b>Date of Meeting:</b>	Thursday 19 January 2023
<b>Subject:</b>	Amendments to the Constitution		
<b>Report of:</b>	Executive Director of Corporate Resources and Customer Services	<b>Wards Affected:</b>	(All Wards);
<b>Portfolio:</b>	Regulatory, Compliance and Corporate Services		
<b>Is this a Key Decision:</b>	No	<b>Included in Forward Plan:</b>	No
<b>Exempt / Confidential Report:</b>	No		

**Summary:**

To seek approval to amend the terms of reference for the Audit and Governance Committee to allow for the appointment of one independent member and to revise the Financial Procedure Rules in Chapter 10 of the Constitution.

**Recommendation(s):**

- (1) Approval be granted to amend the terms of reference for the Audit and Governance Committee to allow for the appointment of one independent member.
- (2) Approval be granted to amend the Financial Procedure Rules as set out in Appendix 1 to this report.

**Reasons for the Recommendation(s):**

To comply with recommended good practice and ensure the Constitution is up to date and fit for purpose.

The Council's Monitoring officer has responsibility for maintaining the Council's Constitution.

**Alternative Options Considered and Rejected:**

None

**What will it cost and how will it be financed?**

**(A) Revenue Costs**

None

**(B) Capital Costs**

None

**Implications of the Proposals:**

<b>Resource Implications (Financial, IT, Staffing and Assets):</b> None	
<b>Legal Implications:</b>	
<b>Equality Implications:</b> There are no equality implications.	
<b>Climate Emergency Implications:</b>  The recommendations within this report will	
Have a positive impact	N
Have a neutral impact	Y
Have a negative impact	N
The Author has undertaken the Climate Emergency training for report authors	Y

**Contribution to the Council's Core Purpose:**

Protect the most vulnerable:
Facilitate confident and resilient communities:
Commission, broker and provide core services:
Place – leadership and influencer:  An up to date and fit for purpose constitution provides the basis for good governance and lawful decision making in the Council and will provide confidence to members of the public and the Council operates within the law and complies with good practice.
Drivers of change and reform:
Facilitate sustainable economic prosperity:
Greater income for social investment:

Cleaner Greener
-----------------

**What consultations have taken place on the proposals and when?**

**(A) Internal Consultations**

The Executive Director of Corporate Resources and Customer Services (FD.....) has been consulted and any comments have been incorporated into the report. The Chief Legal and Democratic Services Officer is the author of the report.

**(B) External Consultations**

None

**Implementation Date for the Decision**

Immediately following the Council meeting.

<b>Contact Officer:</b>	David McCullough
Telephone Number:	Tel: 0151 934 2008
Email Address:	david.mccullough@sefton.gov.uk

**Appendices:**

Appendix 1 – Revised Financial Procedure Rules

**Background Papers:**

There are no background papers available for inspection.

**1. Introduction**

1.1 The Council has agreed a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, whilst others are for the Council to choose.

**2 Audit and Governance Committee Terms of Reference**

2.1 The Chartered Institute of Public Finance and Accountancy (CIPFA) issues Practical Guidance for Local Authorities and Police on the role of the Audit Committees which includes suggested terms of reference.

- 2.2 The 2018 version of the guidance was considered by the Audit and Governance Committee on 17 March 2021 and the committee recommended a change to its terms of reference in light of the guidance to Full Council on 18th May 2021 which were approved.
- 2.3 CIPFA have now produced a new version of the guidance with revised terms of reference. A comparison of the revised suggested terms of reference with the committee's current terms of reference shows no material differences but the Audit and Governance Committee considered some variances at its meeting on 14<sup>th</sup> December 2022 and recommends to Council to make one amendment to its current terms of reference.
- 2.4 CIPFA recommends that an audit committee should have at least two co-opted members. The reasons for CIPFA's recommendation are as follows:
- To supplement the knowledge and experience of elected representatives in specific areas, such as audit or financial reporting.
  - To provide continuity outside the political cycle. This is of particular importance where membership of the committee changes annually or because of elections.
  - To help achieve a non-political focus on governance, risk and control matters
  - Having two co-opted members rather than one will allow recruitment of members with different but complementary knowledge and experience, increase the resilience and continuity of the committee.
  - Having two co-opted members shows a commitment to supporting and investing in the committee.
- 2.5 While including co-opted members can bring real value to the committee, care is needed to ensure that the arrangement works well, both for the co-opted member and for the other committee members. It is essential that the co-opted member receives an adequate induction and ongoing support to provide organisational context and to build working relationships.
- 2.6 We currently do not have any co-opted independent members on the committee, but members of the committee decided to recommend to Council to revise the terms of reference for the committee to allow for the appointment of one independent member and to review the position next year when an annual review of the terms of reference is undertaken.
- 2.7 The independent member will have an advisory role and will not have voting rights.

### **3 Financial Procedure Rules**

- 3.1 As part of the annual review of the Council's Constitution, the Council's Financial Procedure Rules have been the subject of review. This review has included officers from the Finance Service, Internal Audit and Senior Officers within the

Council. The final document as included within this report has also been the subject of review and initial approval by the Council's Monitoring Officer, prior to presentation to members. The revised rules were considered and approved by the Audit and Governance Committee on 14<sup>th</sup> December 2022.

3.2 As would be expected, large elements of the previous version of the Financial Procedure Rules remain as previously approved, however certain changes are proposed and are discussed below. These changes align with the Council's structure, Framework for Change programme and the aims of the Financial Procedure Rules such that:

- They provide the framework for managing the financial affairs of the Council;
- They define the roles and responsibilities of members and officers;
- They facilitate the effective operation of Council activity; and
- They provide a framework for the delivery of an effective internal control environment.

3.3 Having reviewed the Financial Procedure Rules there are a number of areas that are reflected in the updated schedule and the changes have been summarised within the following paragraphs.

3.4 Other minor changes have been made to the format and content of the Financial Procedure Rules to enhance user accessibility including additional section definitions and amendments to paragraph references.

#### 4 Changes as a Result of Organisational Redesign

4.1 The Financial Procedure Rules have been updated to take account of changes to roles and responsibilities and job titles within the Council including officers within the Senior Leadership Board.

#### 5 Section 106 (paragraphs B.50 to B.53)

5.1 The FPRs include a delegation to the Assistant Director of People (Communities) with respect to Section 106 balances.

5.2 A minor amendment has been made to this section to clarify that this relates to the Communities (Neighbourhoods) elements of Section 106 funding. The non-Communities elements will be spent in line with the associated Section 106 agreements and in line with the wider requirements of the FPRs.

#### 6 Determination, Monitoring and Control of Affordable Borrowing (C.19 to C.21)

6.1 Under the Local Government Act 2003 the Council is required by regulation to comply with the CIPFA Prudential Code for Capital Finance in Local Authorities. The key objectives of the Prudential Code are to ensure that within a clear framework, the capital investment plans of local authorities are affordable, prudent and sustainable. A further objective is to ensure that treasury management supports prudence, affordability and sustainability.

6.2 The Council is responsible for approving prior to the commencement of the financial year the prudential indicators for the forthcoming financial year and subsequent financial years as required by the Code.

6.3 Following an update to the Code, the following indicators have been included within the FPRs:

- Estimated Liability benchmark – to support an appropriate level of external borrowing.
- Estimate of net income from commercial and service investments to net revenue stream – this comprises net income from financial investments (other than treasury management investments), together with net income from other assets held primarily for financial return, such as commercial property. This indicator will highlight how reliant the Council is on this income.

6.4 Additionally, the revised Code explicitly states that authorities must not borrow to invest primarily for a financial return. This has been reflected in the update to the FPRs.

## 7 Commercial Activity (paragraphs C.35 to C.41)

7.1 The Council holds a selection of assets that support the Council's Core Purpose and operate on a more commercial basis than other elements of the Council's General Fund. The financial arrangements for these assets are set out within the FPRs.

7.2 This section has been updated to: clarify that any associated revenue and capital budgetary approval for these assets will align with the wider requirements of the FPRs – including any in year requests for additional financial resources; clarify the arrangements for the monitoring and reporting of operational and financial performance; and to clarify the frequency of review and refresh of the associated annual business plans.

## 8 Inventories (paragraph D.45)

8.1 Executive Directors and Assistant Directors must ensure that proper arrangements are made to maintain inventories of all valuable and transportable items.

8.2 The global pandemic has had a significant impact on the working arrangements at the Council including greater use of agile working and working from home. To support these arrangements, there has been an increase in the number of ICT equipment – including laptops – issued to staff and used off site.

8.3 The relevant section of the FPRs has been updated to highlight that Executive Directors and Assistant Directors must ensure they, and staff within their service areas, adhere to the requirements of the ICT Acceptable Use Policy, the Starters, Movers and Leavers Policy and the supporting policies and guidance.

8.4 The ICT Acceptable Use Policy describes acceptable usage, supports the security of Sefton's ICT network, information compliance and helps to prevent against cyber-attacks and cybercrime. The supporting Starters, Movers & Leavers Policy includes the details of what needs to be done with ICT inventory for new starters, those moving within the Council to another post and those leaving the authority.

8.5 Both must be followed by Executive Directors and Assistant Directors when making arrangements for the effective management of inventories including ICT equipment.

## 9 Charging for Income (paragraph E.11)

9.1 The FPRs delegate approval of fees and charges to the respective Cabinet Member. This provides flexibility for service areas to ensure that fees are set at the most appropriate level and are reviewed and adjusted in a timely manner in advance of each financial year.

9.2 The FPRs have been updated to recognise that there may be circumstances where fees and charges require in year amendments – for example, during periods of economic uncertainty, where there are volatile rates of inflation and sector specific pressures. These in year changes will be approved by the relevant Cabinet Member.

## 10 Bad Debts (paragraph E.21 to E.25)

10.1 The Section 151 Officer is responsible for producing and issuing guidance on bad debt. Executive Directors and Assistant Directors are responsible for ensuring their teams comply with this guidance which includes the Corporate Debt Policy and Procedures.

10.2 This section of the FPRs has been updated to highlight that all debts due to the Council will be subject to full recovery, collection and legal procedures as detailed in the Corporate Debt Policy and Procedures. This section has also been updated to clarify that:

- bad debts of up to £10,000 may be written off by Authorised Officers as contained in the Scheme of Financial Delegation in consultation with the Section 151 Officer and the Monitoring Officer.

- bad debts of £10,000 and over should be reported jointly by the Section 151 Officer and the relevant Assistant Director to the Audit and Governance Committee for write-off action.

10.3 This section has also been updated to require that any write off which arises as a result of theft or fraud must be notified to the Chief Internal Auditor immediately. This is in line with the requirement of the FPRs for theft or fraud regarding other non-cash assets.

## 11 Partnerships (paragraph F.3 to F.5)

- 11.1 Partnerships play a key role in delivering community strategies and contributing to the well-being of the area. They also provide new ways to share risks, access new resources and new and better ways of delivering services. Partnership working has become more and more important against the backdrop of reducing public sector resources and increased demand for services.
- 11.2 This section of the FPRs has been simplified to include the high level responsibilities of Executive Directors and Assistant Directors which include:
- a. Adhering to the guidance issued by the Section 151 Officer before embarking on any partnership agreement, ensuring a risk management appraisal is undertaken and obtaining the appropriate approvals
  - b. Ensuring partnerships do not impact adversely on Council services
  - c. Providing appropriate information for the statement of accounts
  - d. Maintaining all contract documents and any associated requirements of the Contract Procedure Rules
  - e. Ensuring partners are aware of their obligations with regards to confidentiality, conflicts of interest, communication and financial and contractual responsibilities
  - f. Ensuring that financial resources are used efficiently and effectively and that accounting arrangements are satisfactory and maintain the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council
- 11.3 Separate guidance will be issued by the Section 151 Officer to support Executive Directors and Assistant Directors to meet these responsibilities. This will include a checklist of all necessary requirements before entering into a partnership, during it and following its cessation.

## 12 Bidding for Grant Funding (paragraphs F.6)

- 12.1 The ongoing impact of budget reductions and higher demands for Council services has placed increased emphasis on identifying alternative sources of funding for existing and new Council activities. This includes bidding for grant funding where this aligns with Council priorities. Often, bids must be submitted at relatively short notice and so it is important that the approval process is clear and allows for quick submission.
- 12.2 Therefore, this section of the FPRs has been updated as follows to streamline and clarify the approval process whilst maintaining appropriate Officer and Member oversight:
- a. All grant submissions should be approved by the Section 151 Officer and the relevant Assistant Director / Executive Director in advance
  - b. The relevant Cabinet Member / Cabinet Member for Regulatory, Compliance and Corporate Services should be consulted and provide approval to proceed



c. If a bid is successful, expenditure can only commence when formal approval for the Supplementary Revenue / Capital Estimate has been received.