



Report for:	Cabinet
Date of meeting:	24 May 2016
Part:	1
If Part II, reason:	

Title of report:	CONSTITUTION AND FINANCIAL REGULATIONS REVIEW AND UPDATE
Contact:	<p>Cllr Andrew Williams, Leader of the Council</p> <p>Author/Responsible Officer:</p> <p>Mark Brookes, Solicitor to the Council and Monitoring Officer</p> <p>James Deane, Corporate Director (Finance and Operations)</p>
Purpose of report:	To seek approval to amend the Constitution and Financial Regulations to reflect changes to staffing structures, operational changes and new legislation.
Recommendations	<ol style="list-style-type: none"> 1. That Cabinet recommend Council to approve the changes to the Constitution as set out in paragraphs 9, 10, 14, 16 and 21 of the report 2. That Cabinet recommend Council to approve the changes to the Financial Regulations as set out in paragraphs 22 and 26 of the report
Corporate Objectives:	The Constitution and the Council's Financial Regulations support all of the Council's Corporate Objectives as they provide the governance framework for all decisions, strategic and operational.
Implications:	<p><u>Financial</u></p> <p>There are no financial implications arising from this report</p> <p><u>Value for Money</u></p> <p>There are no implications arising from this report.</p>
'Value For Money Implications'	

Risk Implications	Failure to have an up to date and accurate Constitution could lead to legal challenge and operational, reputational and financial costs may follow if the challenge was successful.
Community Impact Assessment	There are no community impacts which require assessing resulting from this report.
Health And Safety Implications	There are no Health and Safety implications connected to this report.
Monitoring Officer/S.151 Officer Comments	<p>Monitoring Officer:</p> <p>This is a Monitoring Officer report.</p> <p>S.151 Officer</p> <p>No further comments to add to the report.</p>
Consultees:	<p>Andrew Williams, Leader of the Council</p> <p>Graeme Elliot – Portfolio Holder for Finance and Resources</p> <p>James Deane, Corporate Director (Finance and Operations)</p> <p>Sally Marshall, Chief Executive</p> <p>Assistant Director (Neighbourhood Delivery)</p> <p>Chris Troy, Group Manager (Regulatory Services)</p> <p>Rob Smyth, Assistant Director (Performance and Innovation)</p>
Background papers:	<p>Senior Officer Pay Policy - Cabinet 9th February 2016</p> <p>The Microchipping of Dogs (England) Regulations 2015</p> <p>Address Management Portfolio Holder Decision (PH/011/2016)</p> <p>Cabinet Report 29 June 2015 Amendment to Standing Orders</p>
Glossary of acronyms and any other abbreviations used in this report:	None

BACKGROUND

1. The Monitoring Officer is under a continuous duty to review the Constitution to ensure that it is up to date and provides an appropriate governance framework for all Council decision making.
2. Proposals for change may be prompted not only by formal internal reviews, but also by the Monitoring Officer, the Cabinet, other Members or officers and by public opinion.
3. Changes to the Constitution may only be approved by full Council after consideration of the proposal by the Cabinet and/or the Monitoring Officer.
4. It is proposed that an update of this report in respect of the Constitution is considered by Cabinet and Council at least annually and further reports provided throughout the year as required.
5. The Corporate Director (Finance and Operations) as the Council's S.151 officer is responsible for reviewing and updating the Financial Regulations and provides updates periodically as required. The amendments proposed at paragraphs 22 and 26 have been incorporated on the request of, and with the authority of the Corporate Director (Finance and Operations).
6. The proposals for amendment to the Constitution in this report follow three key areas; staffing structural changes, legislative changes and operational changes.

Staffing Structure

7. Following the retirement of the Assistant Director (Chief Executive's Unit) and Monitoring Officer in April of this year the Head of Paid Service, acting under delegated powers, approved a small number of changes to the existing Leadership Team.
8. The changes approved to the Leadership structure are as follows:
 - Delete the role of Assistant Director (Chief Executive's Unit) from the structure.
 - Create a new role Solicitor to the Council and Monitoring Officer. This role will replace the existing Group Manager (Legal Governance) role which will be deleted from the structure. The new role will report directly to the Chief Executive and have line management responsibility for the Group Manager (Democratic Services). The incumbent of this role will attend Corporate Management Team, Cabinet and Council in their capacity as Monitoring Officer.
 - The fixed term post of the Assistant Director (Performance and Projects) will be confirmed as a substantive post in the structure and renamed Assistant Director (Performance and Innovation).
 - The Group Manager (People) will report to the Assistant Director (Performance & Innovation) and also have line management

responsibility for the Performance and Innovation team and Corporate Administration.

- The Group Manager (Commissioning, Procurement and Compliance) will report to the Assistant Director (Finance and Resources)
9. The changes to the Leadership structure need to be reflected in the Constitution and therefore it is proposed to amend the Constitution so that all functions and duties of the Assistant Director (Chief Executive's Unit) are transferred to the new post of Solicitor to the Council except any functions and duties which have been realigned and transferred to the Assistant Director (Performance and Innovation) or the Assistant Director (Finance and Resources).
 10. The Leadership Team restructure will also necessitate the appointment of a Deputy Monitoring Officer. This role will be covered by the two Legal Governance Team Leaders, Barbara Lisgarten and Christopher Gaunt who will act as Deputy Monitoring Officer for six months of the year each. Barbara Lisgarten will cover the first six months commencing from 2nd May 2016. This arrangement will be reviewed at the end of the financial year. Consequential amendments to the Constitution will be made to reflect this position.

Legislative Changes

11. From the 6th April 2016 new laws were introduced by the The Microchipping of Dogs (England) Regulations 2015 which require all owners (subject to limited exemptions) to microchip their dogs and keep their details up to date on a registered database.
12. Local authorities and the police are empowered by the regulations to:
 - (a) serve on the keeper of a dog which is not microchipped a notice requiring the keeper to have the dog microchipped within 21 days;
 - (b) where the keeper of a dog has failed to comply with a notice under paragraph (a), without the consent of the keeper—
 - (i) arrange for the dog to be microchipped; and
 - (ii) recover from the keeper the cost of doing so;
 - (c) take possession of a dog without the consent of the keeper for the purpose of checking whether it is microchipped or for the purpose of microchipping it in accordance with sub-paragraph (b) (i).
13. Certain offences are also created under Regulation 13 which will enable the Council to prosecute dog owners for failing to comply with a notice served under regulation 12 requiring the dog to be microchipped or by obstructing an authorised person from exercising the power under (b) and (c) above.
14. It is recommended that all Council responsibilities and powers under the The Microchipping of Dogs (England) Regulations 2015 including the power to authorise prosecution proceedings are delegated to the Assistant Director (Neighbourhood Delivery) or the Group Manager (Regulatory Services).

Operational Changes

15. It has been agreed by Portfolio Holder Decision (PH/011/2016) that the Address Management function currently undertaken by Luton Borough Council on behalf of the Planning, Development and Regeneration Team will be terminated and brought back in house in order to achieve efficiency savings and enable the current Geographical Information System (GIS) officer post to be made permanent at minimum cost to the Council.
16. Management of the GIS system is currently a service which falls within the Legal Governance Team. Accordingly, the Address Management service will now move to Legal Governance under the management of the Solicitor to the Council and amendments to the Constitution will be made to reflect this change.
17. The final constitutional amended recommended relates to the 'Officer Employment Procedure Rules' contained in Part 4 of the Constitution..
18. Cabinet and Council were advised by report dated 29 July 2015 of changes introduced by the The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ("the Amendment Regulations") to the disciplinary rules applicable to the Head of Paid Service, Chief Financial Officer or Monitoring Officer ("the Statutory Officers").
19. The Amendment Regulations replace the requirement to appoint a designated independent person with a new procedure which is set out in Schedule 3 to the Amendment Regulations. The Council must appoint at least two "independent persons" to the Panel which is advising the Council on matters relating to the dismissal of the Statutory Officers. These persons must be the independent person already appointed by the Council under section 28(7) of the Localism Act 2011 together with any other second independent person who the Council may have appointed. Where there is no second independent person the Council must appoint an independent person from another authority.
20. Before the Council can take a vote on whether or not to approve a dismissal of a Statutory Officer, it must take into account, in particular-
21.
 - (a) any advice, views or recommendations of the Panel;
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the Statutory Officer who is subject to the disciplinary action.
22. This report recommends that for the purposes of the Amendment Regulations that Council formally appoints the Appointments Committee as 'the Panel' together with the independent person and one other independent person who has been appointed by another local authority.

Financial Regulations

23. There are various references in the Financial Regulations to the Assistant Director (Chief Executive's Unit) as Monitoring Officer. These will all be

replaced with the new role of Solicitor to Council who will also act as the Council's Monitoring Officer.

24. There is currently an inconsistency within the Financial Regulations regarding the method of land disposal adopted by the Council, which this report proposes to correct.
25. The currently approved position on land disposal is that the Corporate Director (Finance and Operations) has delegated authority, in consultation with the Portfolio Holder for Finance and Resources, to dispose of land valued below £500k by means of private treaty, tender, or public auction.
26. The inconsistency is that, unlike disposal by means of private treaty or tender, disposal by means of public auction requires Cabinet to set the conditions of sale and reserve price even if the disposal price is within the Corporate Director's approved disposal limit of £500k.
27. It is recommended that the Financial Regulations be updated so that Cabinet approval is only required to approve conditions of sale and reserve price at auction if the land is valued by a Chartered Surveyor as likely to achieve over £500k. There current requirement for third party valuation of land for disposal would remain, as would the requirement for sign off by the Council's S151 Officer and Monitoring Officer.
28. This proposed amendment to the Regulations would ensure consistency of the Corporate Director's approval levels across all three methods of land disposal, and will ensure that Cabinet is involved in the decision-making process at the appropriate, strategic level, rather than for the disposal of lower value land packages.