

CHANGES TO THE CONSTITUTION	
COUNCIL MEETING DATE 27 JANUARY 2016	CLASSIFICATION: Open If exempt, the reason will be listed in the main body of this report.
WARD(S) AFFECTED All Wards	
CORPORATE DIRECTOR Gifty Edila, Corporate Director of Legal, HR and Regulatory Services	

1. INTRODUCTION

- 1.1 This report requests that Full Council agree changes to the Constitution to give effect to new legislation and to implement other recommended amendments.
- 1.2 The Counter-Terrorism and Security Act 2015 Act requires local authorities to ensure that a multi-agency Channel Panel exists in their area. The Channel Panel's terms of reference and the Chief Executive role as the Proper Officer for this duty is set out in Appendix 1 for insertion into Part 3 of the Constitution.
- 1.3 The Planning Sub-Committee's terms of reference have been reviewed and updated to remove the requirement for the Sub-Committee to determine minor material amendments to major schemes previously awarded planning permission as detailed in Appendix 2 of this report.
- 1.4 The Public Contracts Regulations 2015 implements the 2014 EU Public Sector Procurement Directives as well as some other reforms recommended by the Government to try and make public procurement more accessible to small businesses and impacts the way that contracts are awarded by local authorities. A number of changes to the Council's Contract Standing Orders as shown in Appendix 3 are required to implement the provisions in the Regulations.
- 1.5 To agree a minor amendment to the Access to Information Procedure Rules in Part 4 of the Constitution to clarify that the Access to Information Procedure Rules apply to executive decisions taken by officers.

2. RECOMMENDATION

- 2.1 Full Council is recommended to:
 - i) *approve the establishment of an independent statutory Channel Panel and agree its terms of reference and a change to the Proper Officer Functions as set out in Appendix 1;*
 - ii) *approve the revised Planning Sub-Committee terms of reference, as attached at Appendix 2 of this report;*
 - iii) *approve revised Contract Standing Orders, as set out in Appendix 3; and*
 - iv) *approve an amendment to the Access to Information Procedure Rules as detailed in paragraph 3.7 of this report.*

3. BACKGROUND

Independent Statutory Channel Panel and Counter-Terrorism and Security Act 2015

- 3.1 The Counter-Terrorism and Security Act 2015 Act (“the Act) places a duty on certain bodies [“specified authorities”], in the exercise of their functions, to have due regard to the need to prevent people from being drawn into terrorism. The duty does not confer new functions on any specified authority. Authorities should place an appropriate amount of weight on the need to prevent people being drawn into terrorism when they consider all the other factors relevant to how they carry out their functions. In order to comply with the legislative requirement to have a statutory Channel Panel in place to secure effective local cooperation and delivery of the Prevent Strategy, it is proposed to insert into Part 3, paragraph 3.3.4 the independent statutory Channel Panel section of the Constitution, terms of reference for the Channel Panel. Wording will also be inserted into Part 3, 3.6.4 the Proper Officer Functions section that the Proper Officer responsible for ensuring that the Council, in the exercise of its functions, have due regard to the need to prevent people vulnerable from being drawn into terrorism, is the Chief Executive. The changes are set out in Appendix 1.

Contract Standing Orders

- 3.2 The Public Contracts Regulations 2015 came into force on 26 February 2015. The 2015 Regulations largely replace the Public Contracts Regulations 2006 and introduce a new regime for procurement in England. This has required a number of changes to the Council’s Contract Standing Orders as shown in Appendix 1. Some of the major changes resulting from the 2015 Regulations include: the disappearance of the distinction between Part A/Part B Services; the creation of a new “light touch” regime for social and other specific services set out in Schedule 3 to the 2015 Regulations; an obligation to have all procurement documents electronically available when an OJEU advert is placed; the introduction of new types of procurement procedures such as the “Innovative Partnership” procedure; an obligation to have regard to Government guidance around the selection and exclusion of suppliers; and the introduction of requirements to advertise contracts on Contracts Finder. Where contracts above the value of £25,000 are advertised, there is a requirement for them to be additionally advertised on Contracts Finder. There is also a ban on using a separate Pre-Qualification stage for contracts which are below the relevant EU threshold although suitability assessment questions may be asked before any contract is awarded.

Planning Sub-Committee Terms of Reference

- 3.3 Amendments are proposed to the powers given to the Sub-Committee to determine applications. Appendix 2 to this report contains the existing and proposed new terms of reference for the Planning Sub-Committee.
- 3.4 The proposed changes to the terms of reference are generally considered to be minor. The most significant is the exclusion of decisions relating to planning applications for minor material amendments to major schemes, under section 73 of the Town and Country Planning Act 1990.

- 3.5 Under the existing terms of reference, the Planning Sub-Committee must consider all applications for minor amendments to major schemes previously granted planning permission by the Sub-Committee. In practice, it is not considered effective use of the Sub-Committee time to consider all section 73 applications and as such it is proposed to remove the requirement under the new terms of reference. However, there will be a new power for the Head of Planning to refer any application to the Sub-Committee, including section 73 applications, and there will remain the power for Members to request that an application be heard by the Sub-Committee.
- 3.6 The other changes to the terms of reference include:
- i) noting that the Planning Sub-Committee can endorse recommendations (where there is no decision to make, for example when a matter has already been appealed for non-determination);
 - ii) introducing a timeframe for when the Planning Sub-Committee can request applications are determined by it to ensure that any request is made before an application has been determined under delegated authority;
 - iii) specifying the power of officers to agree minor amendments to conditions/heads of terms, in consultation with the Chair or Vice-Chair of the Sub-Committee;
 - iv) updating the terms of reference to reflect changes in legislation, such as the change in the law removing the need for persons to apply for separate conservation area planning consent;
 - v) inserting reference to the ability of the Sub-Committee to hold pre-application meetings; and
 - vi) clarify terminology used in the terms of reference for example legal agreement covers all statutory powers, and consolidated reference has been made to the 'Development Plan' rather than individual documents that can become outdated.

Other changes to the Constitution

- 3.7 CRG also recommends amending paragraph 1.1 of the Access to Information Procedure Rules in Part 4 of the Constitution to read –

“These rules apply to all meetings of Full Council, the Overview and Scrutiny Commissions, meetings of the Executive and its Committees, key decisions (taken by the Executive, a committee of the Executive, individual members of the Executive, officers or under joint arrangements) and all Council Committees and Sub-Committees.”

- 3.6 This change is recommended to clarify that the Access to Information Procedure Rules apply to executive decisions taken by officers, as well decisions taken by Members. The Council has developed separate guidance for officers on recording and publishing executive decisions in accordance with the Access to Information Procedure Rules.

4. LEGAL CONSIDERATIONS

4.1 The report proposes a number of changes to the Council's Constitution in order to clarify process and enhance effective working arrangements. There are no specific additional legal considerations.

5. FINANCIAL CONSIDERATIONS

5.1 The recommendation is to make a number of changes to the Council's Constitution in order to clarify process and enhance effective working arrangements. There are no financial implications arising out of these proposed changes.

Gifty Edila

Corporate Director, Legal, HR and Regulatory Services

BACKGROUND PAPERS

None.

Appendix 1 – Independent Statutory Panel

Appendix 2 – Planning Sub-Committee existing and proposed new terms of reference

Appendix 3 – Contract Standing Orders

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