

**Report for:
ACTION**

Item Number:

Contains Confidential or Exempt Information	NO
Title	Proposed changes to the council's constitution
Responsible Officer(s)	Director of Legal and Democratic Services
Author(s)	Helen Harris
Portfolio(s)	Leader
For Consideration By	Council
Date to be Considered	19 th October 2021
Implementation Date if Not Called In	Not applicable
Affected Wards	All
Keywords/Index	Constitution changes

Purpose of Report:

A report recommending changes to the council's constitution, relating to cabinet member decision making thresholds, financial procedure rules, and SACRE responsibilities

1. Recommendations

Council is recommended to approve the changes to the constitution set out in the appendices

2. Reason for Decision and Options Considered

The Director of Legal & Democratic Services (DLDS) is responsible for keeping the constitution under review and making recommendations for change as and when appropriate. The changes proposed in this report are an outcome of that ongoing review.

3. Key Implications and options considered

Individual cabinet member decisions (ICMD) relating to contracts, property matters, and grant applications

3.1 A key approach of the current administration is to focus energy on achieving positive change for residents rather than on the mechanics of decision making. Accordingly, it is proposed to delegate the majority of tender and contract award decisions that currently fall to be considered by full cabinet to be taken

as ICMDs , leaving full cabinet meetings with energy and space to focus on strategic issues and policy making.

3.2 The council’s definition of a “key” decision is not proposed to change. That definition is set out in para. 13.03(b) of [part 2 of the constitution](#):

Key decisions: *These are cabinet decisions which are likely:*

- (i) *To result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council’s budget for the service or function to which the decision relates; or*
- (ii) *To be significant in terms of its effects on communities living or working in an area of the local authority.*
 - * *Savings or expenditure will not normally be considered to be significant unless they exceed £500,000.*
 - * *An effect on the community will not be considered to be “significant” unless that significance is felt by people living or working in an area comprising not less than two wards in the borough.*

A decision taker may only make a key decision in accordance with the requirements of the various requirements of this constitution with regard to key decisions.

Note that the definition set out above is statutory, save for those parts of the definition that are shown marked with asterixis. Those elements comprise Ealing’s reasonable local interpretation of the statutory definition.

A key decision must be shown on the council’s published forward plan for at least 28 days before the decision is taken. All key decisions are also subject to potential call in.

There is no constitutional or legal requirement that all decisions taken by cabinet should be deemed to be key decisions.

3.3 The current and proposed decision-making authority levels for officers and portfolio holders are set out below:

Type of decision	Current delegation	Proposed delegation
Contracts	Directors: up to £500k pa	No change
	Cabinet portfolio holders: up to £1m pa	Up to £5m pa
Land	Director of growth and sustainability:	No change

	<ul style="list-style-type: none"> - Disposal up to £500k - Acquisition up to £1.5m 	
	Cabinet portfolio holders: <ul style="list-style-type: none"> - Acquisition or disposal up to £1m 	Acquisition or disposal up to £1.5m
Funding bids	Directors: no monetary limit	No change
	Cabinet portfolio holders: <ul style="list-style-type: none"> - Up to £2m 	No monetary limit

All decisions are currently required to be within the council’s budget and policy framework and it is not proposed to change that overriding rule for either officer decisions or ICMDs

3.4 Financial Procedure Rules

The council’s [Financial Procedure Rules](#) are overdue to be reviewed, simplified, and updated. Proposed replacement rules are set out in appendix 2. The revised Rules have been updated to reflect changes in the council’s delegation, organisational structure and policy framework since they were last reviewed. They do however remain consistent with the current and proposed constitutional changes. A summary of the main elements that have been updated are contained in Appendix 3. It also proposed that the Chief Finance officer be given delegated authority to make minor amendments to the Council’s Financial Regulations following consultation with the Director of Legal & Democratic Services including those necessary to ensure consistency with legislative changes, operational, reorganisations or other structural changes to the management of the Council.

3.5 Also included in Appendix 1 are proposed financial threshold changes for:

- a) approval limits for debt cancellation under para 2.3.8 of Delegations to all Officers to be reflective of decisions now being delegated to Officers and Portfolio Holders.
- b) approval limits for disposals, under 2.3.9 of Delegations to all officers to be reflective off decisions now being delegated to Officers and Portfolio Holders.

SACRE

3.6 A few minor changes are required, to ensure that the constitution is up to date in relation to the responsibilities of SACRE.

4. Financial

There are no budget implications associated with these change proposals.

5. Legal

5.1 The Local Government Act 2000 (section 9P) requires that every council has a constitution. That constitution must contain:

- A copy of the council's council and committee procedure rules (standing orders)
- A copy of the code of conduct for councillors
- Any information directed by the Secretary of State
- Any other information considered appropriate by the council

5.2 The constitution must be made available to the public. It is best practice to keep the constitution under review and therefore up to date; at Ealing that task is undertaken by the Director of Legal and Democratic Services, reporting to the Constitution Review Group and subsequently to full council.

5.3 The definition of a key decision, and the legal requirements for key decisions, are proscribed by Part 3 of the [Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#).

5.4 Other legal implications are set out within the body of the report.

6. Value for Money

The proposals are designed to make the council operate more effectively and efficiently.

7. Sustainability Impact Appraisal

It is not envisaged that the proposals will have any sustainability impact. Accordingly, no formal appraisal has been carried out.

8. Risk Management

No issues.

9. Community Safety

No issues.

10. Links to the 3 Key Priorities for the Borough

The council's administration has three key priorities for Ealing. They are:

- Fighting inequality
- Tackling the climate crisis
- Creating good jobs

11. Equalities, Human Rights and Community Cohesion

No issues.

12. Staffing/Workforce and Accommodation implications:

No implications.

13. Property and Assets

The proposed changes will facilitate more efficient and effective decision making.

14. Consultation

Any changes to the constitution must be advertised in advance and account taken of responses received.

15. Timetable for Implementation

The proposed changes, if approved will come into effect immediately.

16. Appendices

Appendix 1: overview of the constitution changes proposed

Appendix 2: proposed new Financial Procedure Rules

Appendix 3: summary of main proposed changes to the Financial Procedure Rules

17. Background Information

[Ealing Council constitution](#)

The [Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#).

Consultation

	Consultee	Date sent	Date response received	Paragraph in which comments appear
Internal	Cllr Peter Mason, Leader of the Council	08.10.2021		
	Cllr Deirdre Costigan, portfolio holder for Climate Action	08.10.2021		
	Cllr Steve Donnelly, portfolio holder for Inclusive Economy	08.10.2021		
	Mr Ross Brown Chief Finance Officer	08.10.2021		
	Mr Kieran Read, Director of Strategy and Engagement	08.10.2021		
	Constitution Review Group	15.09.2021		
External	All change proposals will be advertised on the council's internet site and any significant feedback taken into account prior to decision			

Report History

Decision type:	Urgency item?
Non-key decision	No
Report no.:	Report author and contact for queries: Helen Harris

APPENDIX 1

Changes proposed to the constitution

	Constitution reference	Existing wording	Proposed wording
1	Part 3 (Responsibility for functions), section 3 (Functions delegated to each cabinet member, within their respective portfolios)	Authorise the award of contracts for the supply of goods or services up to an estimated value of £1million per annum	Authorise the award of contracts for the supply of goods or services up to an estimated value of £5million per annum
2	Part 3 (Responsibility for functions), section 3 (Functions delegated to each cabinet member, within their respective portfolios)	Authorise acquisition or disposal of land or premises up to £1million	Authorise acquisition or disposal of land or premises up to £1.5 million
3	Part 3 (Responsibility for functions), section 3 (Functions delegated to each cabinet member, within their respective portfolios)	Authorise bids for external funds up to £2million subject to financial regulations and any matching funding being identified at the time of bidding	Authorise bids for external funds, subject to financial regulations and any matching funding being identified at the time of bidding
4	Part 4 (Rules of Procedure) Financial Procedure Rules	The current Rules are at this link .	The current document should be replaced with the document attached as appendix 2 and summarised in appendix 3 below. See also new officer delegation to Chief Finance Officer at 6 below

	(financial regulations)		
5	Part 3 (Responsibility for functions), section 4 (Responsibilities of Advisory Committee – Standing Advisory Council on Religious Education (SACRE))	<p>To advise the Authority upon matters connected with religious worship in its schools.</p> <p>(ii) To advise the Authority upon the religious education to be given in its schools in accordance with an agreed syllabus. In particular it can offer advice on methods of teaching, the choice of materials and the provision of training for teachers.</p> <p>(iii) To determine and review the cases where, on application from a head teacher, the requirement for collective worship in a school to be "wholly or mainly of a broadly Christian character" is not to apply. (iv) To decide whether the Authority's agreed syllabus should be reviewed (the Authority Committee of the SACRE cannot ask for such a revision). (v) To write an annual report on its work which will (a) Specify any matters in respect of which the SACRE has given advice to the Authority; (b) Broadly describe the nature of the advice given; (c) Where any such matter was not referred to the SACRE by the Authority, give the SACRE's reasons for offering advice on that matter. Copies of the report must be sent to schools, the Qualifications and Curriculum Authority and local teacher training institutions. For (i) and (ii) the Authority may refer matters to the SACRE or the SACRE may decide its own areas of work. (vi) At the discretion of the Authority the SACRE may (a) Monitor religious education provision to inform their advice and reporting. (b) Be involved in the Complaints Procedure.</p>	<p>To advise the Authority upon matters connected with religious worship in its schools.</p> <p>(ii) To advise the Authority upon the religious education to be given in its schools in accordance with an agreed syllabus. In particular it can offer advice on methods of teaching, the choice of materials and the provision of training for teachers.</p> <p>(iii) To determine and review the cases where, on application from a head teacher, the requirement for collective worship in a school to be "wholly or mainly of a broadly Christian character" is not to apply.</p> <p>(iv) To decide whether the Authority's agreed syllabus should be reviewed (the Authority Committee of the SACRE cannot ask for such a revision). The Authority, on receiving written notification of any such requirement, should cause a conference to be convened for the purpose of reconsidering any agreed syllabus to which the requirement relates.</p> <p>(v) To write an annual report on its work which will (a) Specify any matters in respect of which the SACRE has given advice to the Authority; (b) Broadly describe the nature of the advice given; (c) Where any such matter was not referred to the SACRE by the Authority, give the SACRE's reasons for offering advice on that matter. Copies of the report must be sent to schools, the Qualifications and Curriculum Authority and local teacher training institutions. For (i) and (ii) the Authority may refer matters to the SACRE or the SACRE may decide its own areas of work. (vi) At the discretion of the Authority the SACRE may (a) Monitor religious education provision to inform their advice and reporting. (b) Be involved in the Complaints Procedure.</p>
6	Part 8, para 8.3.3 Functions delegated to the		<p>New paragraph 8.3.2a To make minor amendments to the Council's Financial Regulations following consultation</p>

	Chief Finance officer		with the Director of Legal & Democratic Services including those necessary to ensure consistency with legislative changes, operational, reorganisations or other structural changes to the management of the Council.
7	Part 8, 2.3.8 (Cancellation of debts) of Delegation to All Officers	<p>To write off any debt due to the Council:</p> <ul style="list-style-type: none"> Where the debt does not exceed £25,000 with the approval of the Head of Accountancy Where the debt is between £25,000 and £100,000, with the written approval of the Chief Finance Officer Where the debt is between £100,000 and £500,000, with the written approval of the Chief Finance Officer and agreement of Portfolio Holder. 	<p>To write off any debt due to the Council:</p> <ul style="list-style-type: none"> Where the debt does not exceed £25,000, following written consultation with the Assistant Director of Technical Finance or Strategic Finance or Accountancy or Local Taxation and Accounts Receivable Where the debt is between £25,000 and £500,000, following written consultation with the Chief Finance Officer. Where the debt is in excess of £500,000, following written consultation with the Chief Finance Officer and agreement of the Portfolio Holder.
8	Part 8, 2.3.9 (Cancellation of debts) of Delegation to All Officers	<p>To dispose of any surplus asset (not including land, or an interest in land)</p> <ul style="list-style-type: none"> not exceeding £10,000 in value with the approval of the Head of Accountancy where the value of the asset is between £10,000 and £100,000, with the written approval of the Chief Finance Officer where the value is between £100,000 and £500,000, with the written approval of the Chief Finance Officer and agreement of Portfolio Holder. 	<p>To dispose of any surplus asset (not including land, or an interest in land)</p> <ul style="list-style-type: none"> not exceeding £10,000 in value following written consultation with the Assistant Director of Technical Finance or Strategic Finance or Accountancy Where the value of the asset is between is between £10,000 and £500,000, following written consultation with the Chief Finance Officer. Where the value of the asset exceeds £500,000, following consultation with the Chief Finance Officer and the Portfolio Holder.