

North East Derbyshire District Council

Audit and Corporate Governance Scrutiny Committee

31 January 2019

Financial Procedures Within Constitution Review

Report of the Head of Corporate Governance and Monitoring Officer

Purpose of the Report

- To outline proposed changes to the Finance Rules and the Contract Procedure Rules arising from other proposed amendments to the Delegation Scheme.

1 Report Details

1.1 As part of the Constitution Review the Standards Committee is due to consider at its meeting on 24 January 2019 proposals which impact the Finance Rules within the Constitution. The Constitution Working Group has also considered proposals relating to the Contract Procedure Rules at its meeting on 30 November 2018.

1.2 As the Audit and Corporate Governance Scrutiny Committee terms of reference include overview of the Finance Rules and the Contract Procedure Rules, the proposed amendments are brought to this Committee for its consideration.

1.3 The proposals for consideration relate to:

- Restriction of the use of the Invest to Save Reserve under delegated powers to the Section 151 Officer
- Change of the threshold for consideration of tenders by Cabinet in line with key decision thresholds.

1.4 Details of the proposed amendments to the Constitution and their rationale attached at Appendix 1.

2 Conclusions and Reasons for Recommendation

2.1 Audit and Corporate Governance Scrutiny Committee requested to comment on the amendments to the Finance Rules and Contract Procedure Rules.

3 Consultation and Equality Impact

3.1 There are no Equalities Issues arising from the review.

4 Alternative Options and Reasons for Rejection

4.1 Not applicable.

5 Implications

5.1 Finance and Risk Implications

5.1.1 The Finance Rules provide a framework for managing the authority's financial affairs and the Contract Procedure Rules are designed to ensure that the Council obtains value for money when securing contracts for the provision of goods or services.

5.2 Legal Implications including Data Protection

5.2.1 None arising from this report.

5.3 Human Resources Implications

5.3.1 None arising from this report.

6 Recommendations

6.1 That Audit and Corporate Governance Scrutiny Committee support the proposed amendments to the Finance Rules and the Contract Procedure Rules.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Affected	None directly
Links to Corporate Plan priorities or Policy Framework	Demonstrating good governance

8 Document Information

Appendix No	Title
1	Proposals for amendments to the Constitution
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
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Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
Restriction of the use of the Invest to Save Reserve under delegated powers to the Section 151 Officer	<p>Amendments to the delegation scheme are suggested so as to restrict the use of earmarked reserves (Invest to Save) are restricted to authorisation by the Section 151 Officer. This in practice would be as simple as adding the S151 as a signatory on Delegated Decisions of this nature.</p> <p>The changes to the constitution are proposed to be:</p> <ol style="list-style-type: none"> 1. Including an additional restriction to delegations to Heads of Service (page 63) as follows: <ul style="list-style-type: none"> (5) Delegated powers may only be exercised within approved budgets, unless a virement is permitted by the Financial Regulations. The use of the Invest to Save Reserve (NEDDC) or the Transformation Reserve (BDC) can only be authorised by the Section 151 Officer. 2. Amendment to general powers delegated (page 65): <ul style="list-style-type: none"> <i>9.14 To acquire, dispose of, grant and obtain rights in land and premises on such terms and conditions as considered appropriate where expenditure is within approved budgets.</i> <i>9.15 To acquire, dispose of, grant and obtain rights in vehicles and other equipment and property where expenditure is within approved budgets.</i> 3. Addition of a new delegation for the Section 151 Officer (page 72): <ul style="list-style-type: none"> 12.10 To authorise the use of earmarked reserves (Invest to Save Reserve – NEDDC or Transformation Reserve – BDC). 	Scheme of Delegation for Officers (page 61-79)

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
	<p>4. Addition of a further requirement within the Virement rules within the Budget and Policy Framework (page 136):</p> <p>(b) <i>Steps taken by the Cabinet, a Senior Officer or under joint arrangements (if any) discharging Executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However the Cabinet, or a Senior Officer shall be entitled to vire across budget heads where each individual virement does not exceed £50,000 in total and the aggregated total virement must not exceed £150,000 in any one year. Beyond that limit approval for any virement across budget heads shall require the approval of the Council.</i></p> <p>No officer may vire funds from the Invest to Save Reserve, authorisation of which is restricted to the Section 151 Officer.</p> <p>5. Additional requirement within the Virement rules within the Finance Rules (page 151)</p> <p>8.7 <u>Virements</u></p> <p><i>Once the budget has been approved, Cabinet or budget managers shall be entitled to vire across budget heads with the exception of salary related budgets. Virements from salary related budgets can only be utilised for the use of agency and consultancy work. The Accountancy Section shall be entitled to vire budgets for housekeeping purposes.</i></p> <p>No officer may vire funds from the Invest to Save Reserve, authorisation of which is restricted to the Section 151 Officer.</p>	<p>Budget and Policy Framework Rules (page 133-137)</p> <p>Finance Rules (pages 138-161)</p>

Area of Review	Proposal and Rationale	Sections of the Constitution to be revised
<p>Threshold for consideration of tenders by Cabinet</p>	<p>The proposal is to align the threshold for the requirement for tenders to be submitted to Cabinet with the thresholds for Key Decisions. Currently the threshold for tenders to be determined by Cabinet is £50,000. This was set at the same time as the Key Decision threshold.</p> <p>There is no legal basis on which to determine the level of tenders that must be determined by Cabinet, however the level of key decisions is considered to be the appropriate level. As tenders will relate to revenue expenditure, the threshold would be £100,000.</p> <p>The Contract Procedure Rules would also need to be amended to reflect this change. Section 8 of these rules would be amended as follows:</p> <p><i>8.4 [...] A report outlining the results of the evaluation process will then be presented to Cabinet, if over the Key Decision threshold, to approve the award of the contract.</i></p> <p>Appendix A to the Contract Procedure Rules provides a table summarising the processes and steps to be taken in respect of contracts of different values. An additional banding of thresholds will need to be added to state that only contracts over the Key Decision threshold (£100k) must be submitted to Cabinet.</p>	<p>Executive Function (Zt) within Part 3 The Functions Scheme (On page 44 of the current version)</p> <p>The Contract Procedure Rules – Rule 8.4 (on page 170) and Appendix A (page 175 of the current version)</p>