



Report for: ACTION
Item Number: 5

<b>Contains Confidential or Exempt Information</b>	NO
<b>Title</b>	CONSTITUTION AMENDMENTS – CONTRACT RULES
<b>Responsible Officer(s)</b>	
<b>Contact officer, job title and phone number</b>	
<b>Member reporting</b>	Cllr Burbage, Leader of the Council
<b>For Consideration By</b>	Constitution Sub-Committee
<b>Date to be Considered</b>	30 <sup>th</sup> October 2012
<b>Implementation Date if not Called In</b>	Immediately
<b>Affected Wards</b>	All
<b>Keywords/Index</b>	Contract Rules

<p><b>Report Summary</b></p> <ol style="list-style-type: none"> <li>1. This report deals with proposed amendments to the Constitution, which are required to ensure clarity.</li> <li>2. It recommends that Council considers and approves the proposed revisions.</li> <li>3. This recommendation is being made as the Constitution needs to clearly reflect that only Heads of Service are able to approve contracts valued under £30k.</li> <li>4. It also introduces additional controls around consultancy contracts to provide elected members with greater visibility.</li> <li>5. The use of Officer Decision Forms (which summarise for residents what procurement decisions have been taken and why) is extended to all contracts over £2k (rather than the current threshold of £5k) to provide additional transparency to residents</li> </ol>
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<b>If recommendations are adopted, how will residents benefit?</b>	
Residents will benefit indirectly through improved governance arrangements	November 2012

## 1. Details of Recommendations

### RECOMMENDATION:

That the amendments to the Council’s Constitution as set out in 2.2 be approved.

## 2. Reason for Recommendation and Options Considered

2.1 The Constitution of the Royal Borough of Windsor and Maidenhead is a single point of reference which contains the principal operating structures and procedures of the authority. It 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.

## **2.2 What amendments are requested to be made to the Constitution?**

The Constitution needs to be clear in terms of who is responsible for what. The current draft of the Contract Rules states that “Unit Managers” can approve the award of contracts under £30k. A common understanding of what job roles are equivalent to a “Unit Manager” is not held across the Council. Broadly it is understood to mean a Head of Service, but there are some exceptions. It is therefore proposed that the “Head of Service” is substituted for “Unit Manager” in the Contract Rules.

It is common for Lead Members to have visibility of expenditure decisions within their portfolios but this is not formalised for all requirements. Given the profile of consultancy expenditure it is proposed that formal approvals are introduced for all consultancy appointments over £2k. In order to effect this change the following amendments are required:

Finalised version to be inserted into clause 12.2, in Part 8A:

*All decisions by a Responsible Officer to award contracts for the purchase of consultancy services with a value greater than £2,000, must be approved in writing by the relevant Lead Member, or if the Lead Member is not available, the Leader of the Council or his nominee. For the purposes of this rule, repeated use of the same consultancy within a 12 month period should be treated as cumulative with respect to the value threshold.*

Finalised version to be inserted into clause 17.4

*All decisions by a Responsible Officer to award contracts for the purchase of consultancy services with a value between £30,000 and £79,999 must be approved in writing by the relevant Lead Member, or if the Lead Member is not available, the Leader of the Council or his nominee.*

Finalised version to be inserted into clause 27.4

*All decisions by a Responsible Officer to award contracts for the purchase of consultancy services with a value between £80,000 and £149,999 must be approved in writing by the relevant Lead Member, or if the Lead Member is not available, the Leader of the Council or his nominee.*

Publishing Officer Decision Forms is a simple, but effective mechanism which demonstrates the Council’s commitment to transparency and openness to scrutiny by its Residents. To extend the scope of Officer Decision Forms it is proposed that the following amendments are made:

Amendment should also be made to clause 12.3. The advisory note should be removed, and the clause amended to state:

*All decisions by a Responsible Officer to award contracts less than £30,000 in value must be recorded in writing; with all contracts over £2,000 in value being recorded on the appropriate decision form.*

In the interests of consistency with the subsequent contract rules, the following advisory note should be included after 12.3:

*Appropriate decision forms appear in the Decision-making Toolkit.*

Option	Comments
1. Approve the changes to the Constitution <b>Recommended Option</b>	This will ensure that the Constitution is clear and promotes transparency fully.
2. Do not approve changes	The Constitution will not be clear.

### 3. Key Implications

Defined Outcomes	Unmet	Met	Exceed	Significantly Exceeded	Date they should be delivered by
Amend the Constitution by November 2012.	Do not amend the Constitution by November 2012.	Amend by the November 2012.	n/a	n/a	November 2012

### 4. Financial Details

#### a) Financial impact on the budget (mandatory)

There are no financial implications.

### 5. Legal Implications

The Constitution must be in compliance with the terms of the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007 and Local Democracy, Economic Regeneration and Construction Act 2009, Localism Act 2010 and any statutory guidance issued in relation to those and other Acts.

### 6. Value For Money

An updated Constitution will ensure the Council is less likely to be challenged on its procedures and processes.

### 7. Sustainability Impact Appraisal

There is no impact on sustainability objectives.

### 8. Risk Management

Risks	Uncontrolled Risk	Controls	Controlled Risk
There is a risk of challenge if the Constitution is not legally updated.	Constitution is not updated.	Constitution is regularly reviewed and updated.	Revised Constitution available on website.

### 9. Links to Strategic Objectives

N/A

### 10. Equalities, Human Rights and Community Cohesion

It has been considered that the proposed amendments to the Constitution do not require a full EQIA. No negative impacts were identified.

### 11. Staffing/Workforce and Accommodation implications:

None.

**12. Property and Assets**

None.

**13. Any other implications:**

None.

**15. Timetable for Implementation**

By November 2012

**16. Appendices**

None

**17. Background Information**

None

**18. Consultation (Mandatory)**

<b>Name of consultee</b>	<b>Post held and Department</b>	<b>Date sent</b>	<b>Date received</b>	<b>See comments in paragraph:</b>
<b>Internal</b>				
Cllr Burbage	Leader of the Council	22.10.12	30/10/12	2.2
Christabel Shawcross	Head of Paid Service	22.10.12	N/A	N/A
Mike McGaughrin	Director Operations	22.10.12	N/A	N/A
Cllr Kellaway	Lead Member Procurement & Commissioning	22.10.12	N/A	N/A
Maria Lucas	Head of Legal Services	22.10.12	N/A	N/A

**Report History**

<b>Decision type:</b>	<b>Urgency item?</b>
Non-key decision	No

<b>Full name of report author</b>	<b>Job title</b>	<b>Full contact no:</b>