

Report Title:	Constitutional Amendments
Contains Confidential or Exempt Information	No - Part I
Cabinet Member:	Councillor Rayner, Chairman of the Constitution Working Group
Meeting and Date:	Full Council – 22 November 2022
Responsible Officer(s):	Emma Duncan, Monitoring Officer and Director of Law and Governance / Karen Shepherd, Head of Governance
Wards affected:	None

REPORT SUMMARY

The power to amend the constitution resides with full Council. This report details recommendations to make amendments to the constitution to provide clarity, improve consistency and transparency, and support efficient and effective council meetings and decision making.

The Constitution Working Group met on 31 October 2022 and agreed to recommend amendments to Part 8A – Contract and Tendering Procedure Rules as detailed below, for full Council consideration. The proposals support the Corporate Plan objective ‘A Council Trusted to Deliver’

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That full Council notes the report and considers the recommendation from the Constitution Working Group to amend Part 8A – Contract and Tendering Procedure Rules as detailed in Appendix B.

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Options

Table 1: Options arising from this report

Option	Comments
Approve the changes to the constitution detailed in Section 2 and Appendix B This is the recommended option	The amendments in the updated constitution will ensure the council’s contract procedure rules are clear and consistent.
Modify the changes to the constitution detailed in Section 2 and Appendix B	Members may wish to propose and consider amendments to the recommended changes.
Do not approve the changes to the constitution detailed in Section 2 and Appendix B	The constitution will not promote best practice.

Contract and Tendering Procedure Rules

- 2.1 The Contract and Tendering Procedure Rules are effectively the instructions of the Council to officers and Members for undertaking expenditure on behalf of the Council. Purchasing decisions and processes are important because the money involved is public money.
- 2.2 The purpose of the Contract and Tendering Rules is to provide a structure within which purchasing decisions are made and implemented and which ensures that the Council:
- Furthers its corporate objectives.
 - Uses its resources efficiently and secures value for money.
 - Purchases quality goods, services and works.
 - Safeguards its reputation from any implication of dishonesty or corruption.
 - Is open, fair, and transparent and fully compliant with Procurement Law (the Public Contracts Regulations 2015 as amended).
- 2.3 The Council's Monitoring Officer, together with the Head of Law, and Procurement Manager, regularly review the Contract and Tendering Procedure Rules with a view to ensuring that they are fit for purpose, represent changes to legislation and comply with internal governance arrangements.
- 2.4 The proposed changes to the Contract and Tendering Rules at Appendix B to set out minor changes in relation to Seeking Tenders, Approvals to Award and the Waiver Process. These changes will improve efficiency and provide a better audit trail for decision making.

3. KEY IMPLICATIONS

3.1

Table 2: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Updated constitution	Amendments not approved and updated constitution not published	Amendments approved and updated constitution published	n/a	n/a	December 2022

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 There are no direct financial implications by virtue of the recommendations in the report.

5. LEGAL IMPLICATIONS

- 5.1 The Contract and Tendering Rules are set out in Part 8A of the Council's Constitution and are made in accordance with the requirements of Section 135

of the Local Government Act 1972 and take into consideration the Public Contracts Regulations (PCR) 2015.

6. RISK MANAGEMENT

6.1

Table 3: Impact of risk and mitigation

Risk	Level of uncontrolled risk	Controls	Level of controlled risk
There is a risk of challenge if the constitution is not updated to reflect legal requirements and promote best practice.	Medium	Constitution is regularly reviewed and updated.	Low

7. POTENTIAL IMPACTS

7.1 Equalities. An Equality Impact Assessment is available as Appendix A.

7.2 Climate change/sustainability. None identified.

7.3 Data Protection/GDPR. None identified.

8. CONSULTATION

8.1 The cross-party Constitution Working Group met on 31 October 2022 and unanimously agreed to recommend the changes to full Council.

9. TIMETABLE FOR IMPLEMENTATION

9.1 The full implementation stages are set out in table 4.

Table 4: Implementation timetable

Date	Details
22 November 2022	Full Council considers the recommendations
December 2022	Constitution updated and published to the council website

10. APPENDICES

10.1 This report is supported by two appendices:

- Appendix A – Equality Impact Assessment
- Appendix B – proposed amendments to Part 8A of the council constitution – Contract and Tendering Procedure Rules

11. BACKGROUND DOCUMENTS

11.1 This report is supported by one background document:

- The [current council constitution](#) (v. 21.3)

12. CONSULTATION

Name of consultee	Post held	Date sent	Date returned
<i>Mandatory:</i>		<i>Statutory Officers (or deputies)</i>	
Adele Taylor	Executive Director of Resources/S151 Officer	4/11/22	
Emma Duncan	Director of Law, Strategy & Public Health/ Monitoring Officer	2/11/22	3/11/22
<i>Deputies:</i>			
Andrew Vallance	Head of Finance (Deputy S151 Officer)	4/11/22	10/11/22
Elaine Browne	Head of Law (Deputy Monitoring Officer)	2/11/22	3/11/22
Karen Shepherd	Head of Governance (Deputy Monitoring Officer)	<i>Report author</i>	-
<i>Mandatory:</i>		<i>Procurement Manager (or deputy) - if report requests approval to go to tender or award a contract</i>	
Lyn Hitchinson	Procurement Manager	2/11/22	2/11/22
<i>Mandatory:</i>		<i>Data Protection Officer (or deputy) - if decision will result in processing of personal data; to advise on DPIA</i>	
Emma Young	Data Protection Officer	N/A	
<i>Mandatory:</i>		<i>Equalities Officer – to advise on EQiA, or agree an EQiA is not required</i>	
Ellen McManus-Fry	Equalities & Engagement Officer	4/11/22	
<i>Other consultees:</i>			
<i>Directors (where relevant)</i>			
Tony Reeves	Interim Chief Executive	4/11/22	
Andrew Durrant	Executive Director of Place	4/11/22	
Kevin McDaniel	Executive Director of People Services	4/11/22	
<i>Heads of Service (where relevant)</i>			
Becky Hatch	Head of Strategy	2/11/22	
Louise Freeth	Head of Revenues, Benefits, Library and Residents Services	4/11/22	7/11/22
<i>External (where relevant)</i>			
N/A			

Confirmation relevant Cabinet Member(s) consulted	Cabinet Member for Business, Corporate & Residents Services, Culture & Heritage, & Windsor	Yes
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REPORT HISTORY

Decision type:	Urgency item?	To follow item?
Council decision	No	No

Report Author: Karen Shepherd, Head of Governance, 07766 778286

APPENDIX A - EQUALITY IMPACT ASSESSMENT

Essential information

Items to be assessed: (please mark 'x')

Strategy		Policy		Plan		Project		Service/Procedure	X
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Responsible officer	Karen Shepherd, Head of Governance	Service area	Strategy/Governance	Directorate	Law, Governance, Strategy & Public Health
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Stage 1: EqIA Screening (mandatory)	Date created: 2/11/22	Stage 2 : Full assessment (if applicable)	Date created: N/A
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Approved by Head of Service / Overseeing group/body / Project Sponsor:

"I am satisfied that an equality impact has been undertaken adequately."

Signed by (print): K. Shepherd

Dated: 2/11/22

Guidance notes

What is an EqIA and why do we need to do it?

The Equality Act 2010 places a 'General Duty' on all public bodies to have 'due regard' to:

- Eliminating discrimination, harassment and victimisation and any other conduct prohibited under the Act.
- Advancing equality of opportunity between those with 'protected characteristics' and those without them.
- Fostering good relations between those with 'protected characteristics' and those without them.

EqIAs are a systematic way of taking equal opportunities into consideration when making a decision, and should be conducted when there is a new or reviewed strategy, policy, plan, project, service or procedure in order to determine whether there will likely be a detrimental and/or disproportionate impact on particular groups, including those within the workforce and customer/public groups. All completed EqIA Screenings are required to be publicly available on the council's website once they have been signed off by the relevant Head of Service or Strategic/Policy/Operational Group or Project Sponsor.

What are the "protected characteristics" under the law?

The following are protected characteristics under the Equality Act 2010: age; disability (including physical, learning and mental health conditions); gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

What's the process for conducting an EqIA?

The process for conducting an EqIA is set out at the end of this document. In brief, a Screening Assessment should be conducted for every new or reviewed strategy, policy, plan, project, service or procedure and the outcome of the Screening Assessment will indicate whether a Full Assessment should be undertaken.

Openness and transparency

RBWM has a 'Specific Duty' to publish information about people affected by our policies and practices. Your completed assessment should be sent to the Strategy & Performance Team for publication to the RBWM website once it has been signed off by the relevant manager, and/or Strategic, Policy, or Operational Group. If your proposals are being made to Cabinet or any other Committee, please append a copy of your completed Screening or Full Assessment to your report.

Enforcement

Judicial review of an authority can be taken by any person, including the Equality and Human Rights Commission (EHRC) or a group of people, with an interest, in respect of alleged failure to comply with the general equality duty. Only the EHRC can enforce the specific duties. A failure to comply with the specific duties may however be used as evidence of a failure to comply with the general duty.

Stage 1: Screening (Mandatory)

1.1 What is the overall aim of your proposed strategy/policy/project etc and what are its key objectives?

Amendments to the Constitution – Contract and Tendering Procedure Rules

1.2 What evidence is available to suggest that your proposal could have an impact on people (including staff and customers) with protected characteristics? Consider each of the protected characteristics in turn and identify whether your proposal is Relevant or Not Relevant to that characteristic. If Relevant, please assess the level of impact as either High / Medium / Low and whether the impact is Positive (i.e. contributes to promoting equality or improving relations within an equality group) or Negative (i.e. could disadvantage them). Please document your evidence for each assessment you make, including a justification of why you may have identified the proposal as “Not Relevant”.

Protected characteristics	Relevance	Level	Positive/negative	Evidence
Age	None			
Disability	None			
Gender re-assignment	None			
Marriage/civil partnership	None			
Pregnancy and maternity	None			
Race	None			
Religion and belief	None			
Sex	None			
Sexual orientation	None			

Outcome, action and public reporting

Screening Assessment Outcome	Yes / No / Not at this stage	Further Action Required / Action to be taken	Responsible Officer and / or Lead Strategic Group	Timescale for Resolution of negative impact / Delivery of positive impact
Was a significant level of negative impact identified?	No			
Does the strategy, policy, plan etc require amendment to have a positive impact?	No			

If you answered **yes** to either / both of the questions above a Full Assessment is advisable and so please proceed to Stage 2. If you answered “No” or “Not at this Stage” to either / both of the questions above please consider any next steps that may be taken (e.g. monitor future impacts as part of implementation, re-screen the project at its next delivery milestone etc).