

Corporate Governance and Standards Committee Report

Wards affected: All

Report of Director of Resources

Author: John Armstrong

Tel: 01483 444102

Email: john.armstrong@guildford.gov.uk

Lead Councillor responsible: Matt Furniss

Tel: 07891 022206

Email: matt.furniss@guildford.gov.uk

Date: 24 November 2016

Proposed amendments to the Constitution

Executive Summary

This Committee's terms of reference include, under corporate governance activity, the monitoring and review of the operation of the Council's Constitution. In 2014-15, the Council undertook a fundamental review of the Constitution, in order to bring the document up to date and fit for purpose.

This report sets out a number of proposed amendments to the Constitution which are, in summary, as follows:

- (1) In the introductory provisions to the schedule of Proper Officers (Annex I to the scheme of delegation to officers), to clarify that where any proper officer is, for any reason, unable to act or where the relevant post is vacant, the Managing Director or in his/her absence the Deputy Managing Director, shall be authorised in consultation with the Leader of the Council either to undertake that proper officer role themselves or nominate in writing another officer to undertake that role.
- (2) In Council Procedure Rule (CPR) 1.1 (b), to change the start time for the Annual Meeting at the Guildhall from 7pm to 12 noon but with a provision to change the start time if requested by the Mayor elect.
- (3) In CPR 2.2, to change the order of business at Selection Council Meeting so that the election of Leader (at the post-election Selection Council meeting) immediately follows Mayor's Communications and precedes consideration of any written questions, statements or petitions from the public and any written questions from councillors. It is also proposed to allow communications or announcements from the Leader to be made immediately after the election of Leader at the post-election annual meeting.
- (4) In CPR 13 and Public Speaking Procedure Rule 2, to amend the deadline for delivery of written questions from councillors and the public at Council meetings from 12 noon on the fifth working day before the meeting to 12 noon on the third working day before the meeting.

- (5) In CPR 23 (i), to include, for the purposes of clarity and avoidance of doubt, information on the appointment, terms of reference, composition and duration of working groups (appointed by the Leader, a lead councillor or the Executive) and task groups (appointed by Council, a committee or EAB), including the appointment of working/task group chairmen and substitutes.
- (6) In CPR 28 and 29, to make provision for full Council (at its annual Selection meeting) to elect committee and sub-committee chairmen and vice-chairmen, as appropriate, for the ensuing municipal year; and for the committee concerned to elect a chairman or vice-chairman if the office of chairman or vice-chairman becomes vacant during a municipal year.
- (7) To amend the terms of reference of the Executive Advisory Boards to indicate that:
 - (a) full Council, rather than the boards themselves, shall appoint the respective vice-chairmen each year; and
 - (b) the boards may set up '*task groups*' rather than working groups.
- (8) To amend Public Speaking Procedure Rule 2 (b) and (c) so that any question or statement from the public at a full Council meeting must be relevant "*to the functions, powers or duties of the Council*" rather than being "*relevant to the general work or procedure of the Council*".
- (9) In the Petition Scheme:
 - (a) to clarify in the first bullet point of paragraph 2.1 that petitions submitted to the Council must be relevant to the functions, powers or duties of the Council, and that any action sought by the petitioners must also be within the power of the authority,
 - (b) to clarify in paragraph 2.3 that if a petition does not follow the guidelines the Managing Director, in consultation with the relevant Lead Councillor, is authorised to decide not to do anything further with it,
 - (c) to clarify in paragraphs 3.1 and 8.4 that the decision to take no action on a petition considered to be "vexatious, abusive or otherwise inappropriate", or a decision as to the suitability of an e-petition prior to its publication online will be made by the Managing Director, in consultation with the relevant Lead Councillor, and
 - (d) to delete paragraphs 5.9 and 5.10.
- (10) To amend Financial Procedure Rules and officer delegations to the Head of Financial Services to tighten up on rules where delegated authority exists, provide clarification around existing rules, and to reflect updated practices.
- (11) To amend Procurement Procedure Rules so that:
 - (a) in cases, where an exception to the tendering or quotation process is sought, the Director or Head of Service for the service concerned must obtain the consent of the Director of Resources and the Legal Services Manager, in consultation with the Procurement Officer and the Lead Councillor with responsibility for governance; and
 - (b) the requirement for the grant of an Exception for the purpose of accessing a Framework Agreement is removed.

Recommendation to Council (6 December 2016):

That the proposed amendments to the Constitution, as described in paragraphs 3.2, 4.2, 4.4, 4.6, 4.9, 4.10, 4.12, 4.17, 5.2, 5.3, 5.4, 5.5, 5.8, 6.2, 6.3, 6.4, 6.6, 6.7, 7.2, 7.3 and 7.4 and shown with tracked changes in Appendices 1, 2, 3, and 4 of this report, be adopted.

Reason for recommendation:

To clarify inconsistencies and anomalies in council procedures.

1. Purpose of Report

- 1.1 To present proposed changes to the Council's Constitution and to invite the Committee to comment on those changes and make recommendations to Council as appropriate.

2. Strategic Priorities

- 2.1 Delivery of all strategic priorities within the Council's Corporate Plan is dependent on sound decision-making processes as set out in the Constitution.

3. Proposed Amendments to Schedule of Proper Officers (Part 3 of the Constitution)

- 3.1 The term "proper officer" is peculiar to local government. It is a phrase used to identify a person designated as being responsible for a particular function or range of functions. In the schedule of proper officers in Annex I to the scheme of delegation to officers, there are three paragraphs of 'introductory provisions' which set the context for the designation of specified officers as proper officers.
- 3.2 In order to provide clarity as to which officers may act as proper officer in circumstances when the specified officer is incapacitated or otherwise unavailable or the post is vacant, the following amendment is proposed to the 'introductory provisions':

Substitute the following in place of paragraph 2:

~~"2. The Managing Director or proper officer listed is authorised to nominate in writing another officer to undertake these functions during his or her temporary absence. In the event of any officer mentioned below being, for any reason, unable to act or in the event of the relevant post being vacant, the Managing Director or in his/her absence the Deputy Managing Director, shall be authorised in consultation with the Leader of the Council either to undertake that proper officer role themselves or nominate in writing another officer to undertake that role."~~

4. Proposed Amendments to Council Procedure Rules (Part 4 of the Constitution)

Start time for the Annual Meeting

- 4.1 Council Procedure Rule (CPR) 1.1 (b) - Time and Place of the Annual Meeting on page 4-1 of the Constitution currently states that the Annual Meeting of the Council shall be held at the Guildhall commencing at 7pm. Para 1 (4) of Part 1 of Schedule 12 to the Local Government Act 1972 states: "An annual meeting of a principal council shall be held at such hour as the council may fix, or if no hour is so fixed at twelve noon."
- 4.2 It is proposed that the start time for the Annual Meeting should revert back to 12 noon to accord with the default position referred to in the 1972 Act, but with a provision to change

the start time if requested by the Mayor elect. This would require the following amendment to CPR 1.1 (b):

Substitute the following in place of the wording immediately after subparagraph (ii) of CPR 1.1 (b):

“and the meeting shall, unless the Council or the Managing Director, in consultation with the Mayor elect and political group leaders, otherwise direct, be held at the Guildhall, High Street, Guildford commencing at ~~7pm~~ 12 noon.”

Order of business at the post-election Selection Council meeting

4.3 In CPR 2.2 - Business to be transacted at the Selection Meeting (page 4-2 of the Constitution), the election of the Leader of the Council for a four year term of office at the post-election Selection Meeting - item (ix) - currently follows items on questions, statements and petitions from the public and questions from councillors. The effect of this is that any questions, statements or petitions received could not be responded to formally as the Council would not, at that stage, have elected the Leader, and the Leader would not have announced the names of those councillors that he/she had appointed as Deputy Leader or Lead Councillors.

4.4 In order to correct this anomaly, the following amendment is proposed to CPR 2.2:

Move “To elect a Leader for a four year term of office (at the post-election Selection Council meeting)” to immediately after “To receive any communications or announcements from the Mayor” and re-number items accordingly.

4.5 Currently, there is no provision for the Leader of the Council to deliver any communications or announcements to the post-election Selection Council meeting. If the proposed amendment in paragraph 4.4 above is adopted, it follows that once the Leader is elected at the post-election Selection Meeting, he/she should be permitted to deliver any communications or announcements to the meeting as they see fit.

4.6 Accordingly, the following amendment is proposed to what is currently listed in CPR 2.2, as item (vi):

Delete “(except at the post-election Selection Council Meeting)”

Questions from councillors and the public at Council meetings

4.7 CPR 13 provides that councillors wishing to ask a question at full Council meetings must give written notice specifying the question by no later than 12 noon on the fifth working day before the date of the meeting of the Council at which the question is intended to be asked.

4.8 A similar notice period is required in Public Speaking Procedure Rule 2 in respect of members of the public wishing to ask a question at Council meetings.

4.9 Councillors have requested that the above deadlines be relaxed to the third working day before a Council meeting. It is therefore proposed to amend paragraph (b) (i) of CPR 13 as follows:

“(b) A councillor may:

- (i) ask the Mayor, Leader, a lead councillor or the chairman of any committee any question on a matter in relation to which the Council has powers or duties or which affects the Borough provided that written notice, specifying the question, is delivered to the Director of Corporate Services by no later than 12 noon on the ~~fifth~~ **third** working day before the date of the meeting of the Council at which the question is intended to be asked. For the avoidance of doubt, this means that if the meeting is held on a Tuesday, written notice of the question would need to be delivered by 12 noon on the ~~Tuesday~~ **Thursday** of the previous week.”

4.10 It is also proposed to amend paragraph (b) (ii) of Public Speaking Procedure Rule 2 as follows:

- “(ii) In relation to each meeting at which a member of the public wishes to ask a question, notice specifying the question must be given in writing by the questioner and received by the Director of Corporate Services not later than 12 noon on the ~~fifth~~ **third** working day before the day of the meeting. *For the avoidance of doubt, this means that if the meeting is held on a Tuesday, written notice of the question would need to be delivered by 12 noon on the Thursday of the previous week.*”

Working Groups

4.11 The Constitution currently refers to the provision for committees and the Leader/Executive to appoint working groups for such purposes as they shall specify within their terms of reference, and a requirement for the body appointing them to review at least annually whether the working groups should continue. It is suggested that, for the purposes of clarity and avoidance of doubt, the Constitution should:

- (a) distinguish between *working groups*, which may only be appointed by the Leader, a Lead Councillor, or the Executive and *task groups* which are appointed by the Council or any committee or EAB. A ‘*Task and Finish Group*’ may only be established by the Overview and Scrutiny Committee for the purposes described in Overview and Scrutiny Procedure Rules; and
- (b) include information on the appointment, terms of reference, composition and duration of working groups and task groups, including the appointment of their chairmen and the position regarding the use of substitutes.

4.12 Accordingly, the following amendments are proposed:

(a) In CPR 23, delete paragraph (i) Appointment of Working Groups

(b) Insert new CPR 24 as follows and re-number subsequent CPRs accordingly:

“24. APPOINTMENT OF WORKING GROUPS AND TASK GROUPS

Working groups appointed by the Leader, a Lead Councillor, or the Executive

Appointment, terms of reference, composition and duration

- The Leader, a lead councillor, or the Executive (“the appointing body”) may appoint working groups for such purpose(s) as they shall specify, provided that no such working group shall exercise decision-making powers.
- The appointing body shall determine:
 - (i) the terms of reference of a working group,
 - (ii) the number of councillors on a working group,
 - (iii) whether such working group should be cross-party (i.e. include councillors from more than two political groups), and
 - (iv) the time for which the working group is expected to operate
- The appointing body may appoint individual councillors to a working group, or ask political group leaders to nominate councillors for membership of a working group in accordance with the number of seats each political group has been allocated to that working group.
- Membership of a working group will normally comprise councillors but the appointing body may, if they consider it appropriate, appoint officers of the Council or persons from outside the authority to a working group, but only in an advisory capacity.

Appointment of Chairman

- The appointing body shall have absolute discretion over the appointment of chairman of a working group.

Substitutes

- Unless otherwise decided by the appointing body, substitutes are permitted to serve as members of working groups at any meeting at which another member of the same political group is absent for the entire meeting.

Who may attend meetings of working groups

- A councillor shall not be entitled to attend meetings of working groups unless appointed as a member or substitute or with the agreement of the Chairman of the working group.
- The public may not attend meetings of working groups.

Proceedings to remain Confidential

- The proceedings of meetings of working groups, including any written material circulated to or considered by a working group, will remain confidential until they have been made public with the authority of the appointing body.

Reporting back to the appointing body

- A working group shall, periodically, report back the results of their work, including recommendations where appropriate, to the appointing body.

Annual review

- Continuation of working groups to be reviewed annually by the appointing body”.

Task groups appointed by the Council, a committee or Executive Advisory Board

Appointment, terms of reference, composition and duration

- The Council or any committee, or Executive Advisory Board (“the appointing body”) may appoint task groups for such purpose(s) as they shall specify, provided that no task group shall exercise decision-making powers.
- The appointing body shall determine:
 - (i) the terms of reference of a task group,
 - (ii) the number of councillors on a task group,
 - (iii) whether such task group should be cross-party (i.e. include councillors from more than two political groups), and
 - (iv) the time for which the task group is expected to operate
- The appointing body may appoint individual councillors to a task group, or ask political group leaders to nominate councillors for membership of a task group in accordance with the number of seats each political group has been allocated to that task group.
- Membership of a task group will normally comprise councillors, but the appointing body may, if it considers it appropriate, appoint officers of the Council or persons from outside the authority to a task group, but only in an advisory capacity.

Appointment of Chairman

- Each task group shall elect its own chairman in such manner as they may determine.

Substitutes

- Unless otherwise decided by the appointing body, substitutes are permitted to serve as members of task groups at any meeting at which

another member of the same political group is absent for the entire meeting.

Who may attend meetings of task groups

- A councillor shall not be entitled to attend meetings of task groups unless appointed as a member or substitute or with the agreement of the Chairman of the task group.
- The public may not attend meetings of task groups.

Proceedings to remain Confidential

- The proceedings of meetings of task groups, including any written material circulated to or considered by a task group, will remain confidential until they have been made public with the authority of the appointing body.

Reporting back to the appointing body

- A task group shall, periodically, report back the results of their work, including recommendations where appropriate, to the appointing body.

Annual review

- Continuation of task groups to be reviewed annually by the appointing body”.

Election of chairmen and vice-chairmen of committees and sub-committees

- 4.13 The Council has, to date, adopted the practice of convening short meetings of each committee immediately following the annual Selection Council meeting for the purpose of electing a chairman and vice-chairman from among the respective members appointed to each committee at the Selection meeting.
- 4.14 The Mayor takes the chair at the start of each meeting and presides over the process for the election of each chairman, following which the newly elected chairmen take the chair to preside over the election of each committee’s vice-chairman. In relation to the Licensing Committee, the chairman also presides over the appointment of the seven designated Licensing Sub-Committee chairmen.
- 4.15 This practice has been somewhat cumbersome and time consuming in the past and, for new councillors and the public, it has caused considerable confusion. However, it is a matter for the Council to decide whether committee chairmen and vice-chairmen (and Sub-Committee chairmen and vice-chairmen) are elected by the committee itself or by full Council.
- 4.16 Following the governance review in 2015, the Council agreed that the chairmen of the two Executive Advisory Boards (EABs) be appointed by full Council, rather than by the respective EABs themselves.
- 4.17 In order to provide clarity, consistency and efficiency in the election of chairmen and vice-chairmen of committees (including the EABs) and sub-committees, the following amendments are proposed:

- (1) In CPR 28, substitute the following in place of paragraph (a), Election of Chairmen and Vice-Chairmen of Committees (page 4-23 of the Constitution):

“Election of Chairmen and Vice-Chairmen of Committees and Sub-Committees

- (a) At the Selection Meeting each year, and following the appointment of committees, the Council shall elect the chairmen and vice-chairmen of all committees, including the executive advisory boards, and any sub-committees of those committees for the ensuing municipal year. Nominations for election of committee and sub-committee chairmen and vice-chairmen shall be submitted to the Democratic Services Manager in advance of the Selection Meeting at the same time as nominations are submitted for appointments to committees. If two candidates are nominated, the election shall be determined in accordance with paragraph (c) of Council Procedure Rule 19. If there are more than two candidates nominated, the election shall be determined in accordance with paragraph (f) of Council Procedure Rule 19, subject to the election being decided by the drawing of lots in the event of a tied vote of the two remaining candidates.

If, during the course of a municipal year, a councillor

- (i) resigns from the office of chairman or vice-chairman of a committee or sub-committee, or
- (ii) is no longer appointed as a member of the committee or sub-committee to which he or she was elected chairman or vice-chairman, or
- (iii) resigns as a councillor, or
- (iv) becomes disqualified,

the election of his or her successor for the remainder of that municipal year shall be conducted by the Committee at its next meeting.”

- (2) In CPR 29, No Confidence in the Chairman, substitute “full Council at that meeting” in place of “that committee or sub-committee” in paragraph (b).
- (3) In the terms of reference of the Executive Advisory Boards on pages 3-9 and 3-10 of the Constitution,

- (i) substitute the following in place of paragraph (c) under Membership:

“(c) ~~Each Executive Advisory Board~~ *The Council shall appoint from among themselves a vice-chairman for each Executive Advisory Board.*”

- (ii) Substitute the following in place of paragraph (d) under Powers:

“(d) To set up panels, ~~working~~ *task* groups or breakout groups.....”.

5. Proposed Amendments to the Petition Scheme – Appendix to Public Speaking Procedure Rules (Part 4 of the Constitution)

- 5.1 The first bullet point of paragraph 2.1 of the Council’s Petition Scheme (page 4-31 of the Constitution) requires any petition submitted to the Council to include a clear and concise statement covering the subject of the petition and indicating what action the petitioners wish the Council to take.

5.2 As the Petition Scheme does not actually specify the topic areas on which petitioners may submit petitions, officers recommend for the avoidance of doubt that these should be *“relevant to the functions, powers or duties of the Council”*. Officers also recommend that the Petition Scheme should clarify that any action sought by the petitioners must be within the power of the authority. It is also recommended that the phrase *“relevant to the functions, powers, or duties of the Council”* should replace the phrase *“relevant to the general work or procedure of the Council”* which is currently used in Public Speaking Procedure Rule 2 (b) and (c) as the parameter within which the public may ask questions or make statements at Council meetings. If this is agreed, it is suggested that the Council should delete as superfluous the text in Public Speaking Procedure Rule 2 (b) (iii): *“Only questions which the Director of Corporate Services considers appropriate and relevant to some matter on which the Council has powers or duties or which specifically affects the Borough will be accepted.”*

5.3 It is suggested, for the purposes of clarity, that the Council should only accept as valid such petitions (or e-petitions) that are *“relevant to the functions, powers or duties of the Council”*. Therefore, it is recommended that the first bullet point of paragraph 2.1 of the Petition Scheme should read:

- *“a clear and concise statement covering the subject of the petition which must be relevant to the functions, powers or duties of the Council. It should also state what action within the power of the authority the petitioners wish the Council to take.”*

5.4 Currently, paragraph 2.3 of the Petition Scheme (page 4-32 of the Constitution) states that if a petition does not follow the guidelines in the Petition Scheme, the Council may decide not to do anything further with it. Officers recommend that the Managing Director, in consultation with the lead councillor with responsibility for governance, should be authorised to make this decision rather than it being, technically, a decision that only full Council can take.

5.5 The Petition Scheme also provides that the Council will:

- (a) take no action on a petition which is considered to be *“vexatious, abusive, or otherwise inappropriate”* (see paragraph 3.1 of the Petition Scheme – page 4-32 of the Constitution), or
- (b) not publish an e-petition on the Council’s website by reason of its suitability (see paragraph 8.4 of the Petition Scheme – page 4-35 of the Constitution).

However, the Scheme does not specify who makes such decisions. In order to clarify the position, officers recommend that the decisions required in (a) and (b) above should also be taken by the Managing Director, in consultation with the lead councillor with responsibility for governance.

5.6 However, paragraph 5.9 of the Petition Scheme (page 4-33 of the Constitution) currently refers to possible action that the Council might consider taking in respect of petitions on matters *“over which the Council has no direct control (for example local railway services or hospitals)”*. In these circumstances, it is stated that *“we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and agencies and where possible will work with these partners/agencies to respond to the petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to the petition organiser.”*

5.7 Similarly, paragraph 5.10 of the Petition Scheme refers to giving consideration to how best to respond to petitions about matters for which another local authority is responsible.

5.8 On the basis that it is proposed that the Council should only accept as valid petitions (or e-petitions) that are “relevant to the functions, powers or duties of the Council”, it is recommended that paragraphs 5.9 and 5.10 of the Petition Scheme be deleted.

6. Proposed Amendments to Financial Procedure Rules and related officer delegations

6.1 The Head of Financial Services has proposed a number of amendments to Financial Procedure Rules and these are set out in Appendix 3 to this report. The Financial Procedure Rules were significantly reviewed in December 2014. The majority of changes now proposed are to:

- incorporate new delegations recently approved through committee reports,
- make minor amendments to tighten up on rules where delegated authority exists,
- provide clarification around existing rules, and
- to reflect updated practices, committee names and officer structure.

6.2 There are, however, two significant changes as detailed below:-

- (a) Officers suggest that the supplementary estimate limits under which the Executive have delegated authority, are increased to £500,000 for revenue and £1million for capital. Supplementary estimates are increases in the overall bottom line budget of the Council. All supplementary estimates require a public report to either Executive or Council because there is no Officer level delegation. Revenue supplementary estimates are not frequently used as Officers are normally able to manage any additional spending pressures through virement procedures or by drawing on reserves. However, it is more common that Officers request capital supplementary estimates because, with the exception of the capital contingency fund, the scope for managing additional capital budget pressures are limited. The nature of capital projects are that levels of expenditure are generally high and therefore the current rules of delegation mean that the majority of capital supplementary estimates require Council approval, and that Executive delegated authority is rather limited. This means additional delays to projects as Council meets less frequently than Executive. Officers feel that capital supplementary estimates below £1million could be dealt with by Executive, whilst still retaining Council control over significant decisions. As an example, if the new proposed financial procedure rules were in place, major decisions such as the purchase of New House and Wey House and the supplementary estimates that were approved for the purchases would still require Council approval; however, the supplementary estimate for under £600,000 necessary to purchase the investment property due to be considered by Executive in November 2016 would not require Council approval.
- (b) Officers suggest that the capital virement limits under which the Executive have delegated authority are also increased to reflect the proposed capital supplementary estimate limits detailed in (a) above. This change will mean that both Officers and the Executive are able to effectively manage the Capital Programme within the overall boundary of the budget and the capital contingency fund, whilst retaining Council control over major decisions.

- 6.3 The Head of Financial Services has also requested an amendment to paragraph D.3.5, which sets out key controls for ordering and paying for goods and services, by the addition of the following additional controls:
- (i) goods and services can only be ordered from suppliers on the Council's approved suppliers list
 - (ii) new suppliers to the Council are reviewed by the payments team to ensure appropriate legislation is adhered to, prior to the supplier being engaged

- 6.4 Similarly, in paragraph D.3.7, the following additional responsibilities of directors, heads of service and service leaders, should be included:

- (i) to ensure that goods and services are only ordered from suppliers on the Council's approved suppliers list
- (ii) to make official requests for new suppliers to be added to the Council's approved suppliers list in the format set out by the e-payments manager
- (iii) to consult with the e-payments manager before engaging with any self-employed contractors to ensure that appropriate legislation is adhered to

- 6.5 The reason for this is to ensure that we implement revised procedures in relation to checking whether people are self-employed for employment purposes following recent legislation tightening.

- 6.6 The Head of Financial Services has also requested amendments to existing delegations as follows:

"16. To ~~apply~~ authorise all expressions of interest and applications for external funding and grants, and to certify grant claims and make payments where these are of a statutory nature or within approved budgetary provision."

The purpose of this proposed change is to ensure that the Head of Financial Services is aware of other officers' expressions of interest in, and applications for, funding from external sources. This is also reflected in the proposed amended wording of paras E.3.1 and E.3.2 in the revised Financial Procedure Rules.

"30. To authorise moving up to £200,000 from capital projects ~~from~~ on the provisional capital programme to the approved capital programme where ~~the gross budget is under £200,000 and~~ a business case has been submitted by responsible officers."

The reason for this proposed change is that, under the existing delegation, the Head of Financial Services only has authority to move projects if the gross budget of the project is under £200,000. The proposed change would authorise the Head of Financial Services to move up to £200,000 from *any* capital project to the approved programme (ie, not just those where the gross budget is under £200,000). This should eliminate the need for reports to be submitted to the Executive asking for small amounts of money for feasibility studies etc. to be moved from the provisional to the approved capital programme and therefore allow the Executive to focus on approval of business cases for proceeding with projects once feasibility studies are complete and more information about a project and its costs are known. This change makes better use of Executive time.

- 6.7 The following additional delegations to the Head of Financial Services are also proposed:

"38. In consultation with the Lead Councillor for finance to approve expenditure from the Council's Budget Pressures, Business Rates Equalisation and LABGI reserves."

39. To authorise expenditure from the Council's capital contingency fund for existing approved capital projects up to a maximum of 20% of the gross project cost or £200,000 whichever is the lower amount in accordance with the Council's financial procedure rules for capital virements."

7. Proposed Amendments to Procurement Procedure Rules

- 7.1 The Legal Services Manager has proposed a number of revisions to the Procurement Procedure Rules (PPRs). A tracked changed version of the PPRs is set out in Appendix 4 to this report.
- 7.2 The Corporate Procurement Advisory Board (CPAB) is an officer group set up to identify areas of strength and weakness in the procurement process and seek out solutions and better methods of working, encouraging consistency and efficiency to achieve best value for the Council through the procurement process. It is proposed to revise its title to that of the Corporate Procurement Advisory 'Panel' (CPAP) as this is an officer group. The rules currently make reference to "*when the CPAB is established ...*" The Panel has been established for some time and meets every other month. This is to be updated. In addition, the rules set out a process for securing an Exception to compliance with the PPRs for procurements under the EU threshold. The Rules have been drafted on the basis that this is a decision for the CPAP. An example of a ground for granting an Exception may be that of genuine urgency. The Panel do not meet frequently enough for this to be an efficient process. It is therefore proposed that in all cases, where an exception to the tendering or quotation process is sought, the Director or Head of Service for the service concerned shall obtain the consent of the Director of Resources and the Legal Services Manager, in consultation with the Procurement Officer and the lead councillor with responsibility for governance (see paragraph 2.3.1 of the PPRs).
- 7.3 The PPRs currently require the grant of an Exception to authorise access to a Framework Agreement. It is proposed to update the PPRs to remove the requirement for the grant of an Exception in order to access a Framework Agreement (see proposed deletion of paragraph 2.3.2.1). As councillors will be aware, a Framework Agreement is a contract that has been officially tendered for by another local authority, public sector organisation, Purchasing Consortium or central government. Acquiring goods, works or services under a Framework Agreement is an efficient method of procuring the Council's requirements. The agreement has provision for other named public sector bodies to access the contract without having to undertake their own tender process. Framework Agreements can be used at any of the threshold levels and provide a good option for the Council ensuring both best value and a compliant procurement process. Procuring through a Framework Agreement is a compliant activity and it is not considered appropriate for this to be subject to an Exception. Sufficient protection is provided by requiring consultation with the Legal Services Manager before accessing a Framework Agreement to establish the terms of legal access to the Framework Agreement (see revisions to paragraph 8.1 of the PPRs). In addition, the use of Framework Agreements is to be reported into the CPAP (see paragraph 8.3 of the PPRs).
- 7.4 Following the recent departure from the Council of Satish Mistry, references to *Director of Corporate Services* have been updated throughout the four sets of procedure rules referred to in this report. The Council, at its extraordinary meeting on 26 October 2016, authorised the Monitoring Officer, in consultation with the Lead Councillor for Infrastructure and Governance, to make all necessary constitutional changes to reflect the interim arrangements to be implemented as a consequence of Mr Mistry's departure. In those references where the delegation is in relation to a legal matter, these have been

designated to the Legal Services Manager. In other cases, the delegations have been designated to the Managing Director or Democratic Services Manager, as appropriate.

8. Financial Implications

8.1 There are no direct financial implications arising from the proposals in this report.

9. Legal Implications

9.1 The Council is legally required to keep its Constitution up to date (Section 9P of the Local Government Act 2000).

10. Human Resource Implications

10.1 There are no direct human resource implications arising from the proposals in this report.

11. Conclusion

11.1 The Committee is asked to consider the amendments to the Constitution proposed in this report and make recommendations, as appropriate, to full Council.

12. Background Papers

[Guildford Borough Council Constitution](#)

13. Appendices

Appendix 1: Proposed amendments to Council Procedure Rules (with tracked changes)
Appendix 2: Proposed amendments to Public Speaking Procedure Rules (with tracked changes)
Appendix 3: Proposed amendments to Financial Procedure Rules (with tracked changes)
Appendix 4: Proposed amendments to Procurement Procedure Rules (with tracked changes)