

Amendments to the Constitution – November 2023

To assist updates are underlined and highlighted in yellow in the final column of the table below: “ Revised wording (subject to approval)”

Heading	Section	Page	Current wording	Revised wording (subject to approval)	Category of update
Part 2	Articles of the Constitution	13	Cabinet Member – Portfolio Lead 9 th bullet point: <ul style="list-style-type: none"> Works closely with Corporate Leadership Team 	Replace with: <ul style="list-style-type: none"> Works closely with Corporate Leadership <u>Board</u> 	Typographical error
Part 2	Articles of the Constitution	26	Article 9 – Audit and Resources Committee <i>Currently no summary of the purpose of the Committee.</i>	New para 9.02 Purpose: <u>The Audit and Resources Committee is a key component of an authority’s governance framework. Their purpose is to provide an independent and high-level focus on the adequacy of governance, risk and control arrangements. The Committee’s role in ensuring that there is sufficient assurance over governance risk and control gives greater confidence to all those charged with governance that those arrangements are effective and that public funds are used efficiently and effectively.</u>	New addition
Part 2	Articles of the Constitution	26	Article 9 – Audit and Resources Committee 9.02 Composition The size and composition of this committee will be determined by Council from time to time as it sees fit but will be separate, organisationally and practically, from the executive and will not comprise of any Cabinet members. The committee will meet as needed and in public (subject to confidential and exempt business).	9.02 Composition The size and composition of this committee will be determined by Council from time to time as it sees fit but will be separate, organisationally and practically, from the executive and will not comprise of any Cabinet members. The committee will meet as needed and in public (subject to confidential and exempt business).	

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			The Chair shall be elected by full Council.	<p>The Chair shall be elected by full Council.</p> <p>Membership will include up to two independent members with relevant knowledge or expertise in areas such as governance, finance, risk management and/or audit. These co-opted members will be a non-councillor and politically neutral and will have no voting rights. Co-opted members can be recompensed for reasonable travel and other expenses.</p> <p><u>(Applicable from 1 April 2024)</u></p>	New addition
Part 2	Articles of the Constitution	29	<p>Article 10 - Area Committees</p> <p>The Terms of reference for the Committee:</p> <p>e) At its meeting on 24 July 2014, Council approved the creation of a ‘Horton Heath Development Management Committee’ to deal solely with planning applications in the area of West End north of the railway line, and adjacent/within the Fair Oak and Horton Heath Parish. The membership of this committee will comprise the three Fair Oak and Horton Heath Councillors and the four West End Councillors.</p>	<p>Article 10</p> <p>e) At its meeting on 24 July 2014, Council approved the creation of a ‘Horton Heath Development Management Committee’ to deal solely with planning applications in the area of West End north of the railway line, and adjacent/within the Fair Oak and Horton Heath Parish, and amended this delegation on 27 November 2023 to include any other Local Area Committee decision relating to the One Horton Heath development area*.</p> <p>The membership of this committee will comprise the three Fair Oak and Horton Heath Councillors and the four West End Councillors.</p> <p>*including but not limited to street-naming, site maintenance, community issues.</p> <p>f) At its meeting on 27 November 2023, Council approved the creation of a ‘Joint Area Committee’ to determine planning applications that the Service Director –</p>	<p>New addition</p> <p>New addition</p>

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				<p>Planning and Environment in consultation with the Leader of the Council considers to be of Borough-Wide significance. The relevant Local Area Committee will be consulted on the proposal and their comments reported to the Joint Area Committee.</p> <p>The Joint Area Committee will be politically proportionate, and membership will be made up of the five Local Area Committee Chairs, the Chair of Horton Heath Development Management Committee and 5 others to achieve proportionality, but exclude other Cabinet members. The Chair of this Committee will be appointed annually and will not be a Local Area Committee Chair.</p>	
Part 3	Scheme of Delegation	51	<p>Appointment of Property and Designated Officers Buildings Act 1984, Section 78 The Officer to deal with dangerous buildings or structures in emergencies</p>	<p>Head of Regulatory Services/Service Director - Planning and Environment</p>	Additional role added to delegation
Part 3	Scheme of Delegation	57	<p>Functions relating to Planning and Development Matters 49. The determination of planning applications (excluding those relating to trees which are dealt with below) except: - (a) Applications which, in the opinion of the Service Director of Planning and Economy have a significant impact on the environment, or are controversial or potentially controversial; (b) Applications which three members from the Local Area Committee require to be</p>	<p>Functions relating to Planning and Development Matters 49. The determination of planning applications (excluding those relating to trees which are dealt with below) except: - (a) Applications which, in the opinion of the Service Director of Planning and Environment or Planning Manager have a significant impact on the environment, or are controversial or potentially controversial;</p>	Update to job title and Additional role added to delegation

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			<p>submitted to Committee within 21 calendar days of that application appearing on the weekly list of planning applications received;</p> <p>(c) Any application which the Service Director of Planning and Economy wishes for any reason to submit to the Committee;</p> <p>(d) Any application where a Councillor has declared or is shown to have a disclosable pecuniary interest;</p> <p>(e) Any application where a member of staff would have a personal interest and could be seen to influence the decision;</p> <p>(f) Any applications submitted by former planners or technical staff band 8 or above within one year of leaving the Council's service or from applicants or agents employing such former members of staff.</p>	<p>(b) Applications which three members from the Local Area Committee require to be submitted to Committee within 21 calendar days of that application appearing on the weekly list of planning applications received;</p> <p>(c) Any application which the Service Director of Planning and Environment or Planning Manager wishes for any reason to submit to the Committee;</p> <p>(d) Any application where a Councillor has declared or is shown to have a disclosable pecuniary interest;</p> <p>(e) Any application where a member of staff would have a personal interest and could be seen to influence the decision;</p> <p>(f) Any applications submitted by former planners or technical staff band 8 or above within one year of leaving the Council's service or from applicants or agents employing such former members of staff</p> <p>(g) Any application which the Local Area Committee Chair, relevant portfolio holder or Leader wishes for any reason to submit to the Committee.</p>	<p>Update to job title and Additional role added to delegation</p> <p>New addition</p>
Part 3	Scheme of Delegation	59	<p>Functions relating to Neighbourhood Services</p> <p>Function 69 The enforcement of the legislation below (Function 70) relating to neighbourhood services, including the appointment of named officers or as inspectors, and the designation of powers that they may use, including issuing fixed penalty notices, directions and orders, serving notices and seizure.</p> <p>Function 70</p>	<p>Service Director – Neighbourhoods and Green Spaces or Head of Regulatory Services</p>	<p>Additional role added to delegation</p>

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			<p>Environment Protection Act 1990: Part II – Waste on Land; Part IV – Litter, Refuse Disposal</p> <p>Amenity Act 1978: Sections 2 and 3 (abandoned vehicles),</p> <p>Clean Neighbourhoods and Environment Act 2005: Part 2 – Vehicles; Part 3 – Litter and refuse;</p> <p>Part 4 – Graffiti and other defacement; Part 5 – Waste, transport, deposit and disposal; Part 9 –</p> <p>Miscellaneous powers.</p>	<p>Service Director – Neighbourhoods and Green Spaces or Head of Regulatory Services</p>	<p>Additional role added to delegation</p>
Part 3	Scheme of Delegation	62	<p>Functions relating to Environment and Health Permits/Consents/Registrations/Enforcement</p> <p>Function 94</p>	<p>Function 94</p> <p>Add the following legislation to the delegation:</p> <ul style="list-style-type: none"> • Housing and Planning Act 2016 (Cabinet 25.06.20) • Energy Acts 2011& 2013 (Cabinet 16.09.21) • Microchipping of Dogs (England) Regulations 2015 • Enterprise and Regulatory Reform Act 2013 (Cabinet 16.09.21) <p>and regulations made thereunder.</p>	<p>Additional/new legislation</p>
Part 3	Scheme of Delegation	65	<p>Functions relating to Legal Proceedings, litigation and prosecution</p> <p>Function 114</p> <p>The execution of agreements for minor wayleaves over Council properties for drainage, gas, electricity and telephone facilities.</p>	<p>Move function 114 to ‘Functions relating to Property and Assets’ (page 69, new function 132)</p> <p>The execution of agreements for minor wayleaves over Council properties for drainage, gas, electricity and telephone</p>	<p>Moved to new section</p>

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				<p>facilities in consultation with the Lead Asset Manager</p> <p>Head of Legal Services and Data Protection Officer</p>	Amendment to delegation
Part 4	Rules for Procedure – Appendix E	93	<p>Planning Applications</p> <p>f) The following categories of development applications shall remain for determination by the Council:</p> <ul style="list-style-type: none"> i. Development constituting a substantial departure from any approved statutory or non-statutory plan where the Local Area Committee wishes to take a decision contrary to the recommendation of the Service Director- Planning and Environment. ii. Development which has a Borough-wide significance or impact* and is likely to cause wide public interest beyond the boundary of the Borough where the Local Area Committee wishes to take a decision contrary to the recommendation of the Service Director - Planning and Environment. <p>*the Service Director - Planning and Environment in liaison with the Portfolio Holder responsible for Planning will determine as soon as possible after the receipt of an application if a development is likely to have Borough-wide significance or impact and is likely to cause wide public interest and if (ii) will apply.</p>	<p>Planning Applications</p> <p>f) The following categories of development applications shall remain for determination by the Joint Area Committee:</p> <ul style="list-style-type: none"> i. Development constituting a substantial departure from any approved statutory or non-statutory plan where the Local Area Committee wishes to take a decision contrary to the recommendation of the Service Director- Planning and Environment or Planning Manager. ii. Development which has a Borough-wide significance or impact* or is likely to cause wide public interest beyond the boundary of the Borough where the Local Area Committee wishes to take a decision contrary to the recommendation of the Service Director - Planning and Environment or Planning Manager. <p>*the Service Director - Planning and Environment in liaison with the Leader of the Council will determine as soon as possible after the receipt of an application if a development is likely to have Borough-wide</p>	<p>Amendment to delegation</p> <p>Additional role added to delegation</p> <p>Additional role added to delegation</p>

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				significance or impact and is likely to cause wide public interest and if (ii) will apply.	
Part 4	Rules for Procedure – Contract Procedure Rules	130	<p>3.18a (typo)</p> <p>a) if within an existing budget, up to a set sum of £50,000, agreement by the relevant Service Director in conjunction with the Chief Financial Office</p>	<p>3.18a</p> <p>a) if within an existing budget, up to a set sum of £50,000, agreement by the relevant Service Director in conjunction with the Chief Financial Officer</p>	Typographical error
Part 4	Financial Procedure Rules	139	<p>Banking arrangements and Cheques</p> <p>Para 5.10</p> <p>All cheques which are manually produced or are for a value of £20,000 or more, shall be countersigned by an officer nominated by the Chief Financial Officer</p>	<p>Para 5.10</p> <p>Delete no longer relevant</p>	Omission/deletion
Part 4	Financial Procedure Rules Appendix H	148	<p>Partnerships & External Funding</p> <p>Para 6.07</p> <p>Where sponsorship or grant funding is being sought which does not involve a formal application for funding, a written notification should be kept. This applies where such sponsorship exceeds £1,000 but is less than £10,000 in total for any one initiative. Below this sum, Service Managers are expected to exercise adequate control over these monies. Sponsorship or grant funding exceeding £10,000 in total should be approved by Cabinet</p>	<p>Where sponsorship or grant funding is being sought which does not involve a formal application for funding, a written notification should be kept. This applies where such sponsorship exceeds £1,000 but is less than £10,000 in total for any one initiative. Below this sum, Service Managers are expected to exercise adequate control over these monies.</p> <p>Sponsorship or grant funding being sought which exceeds £10,000 in total should be approved by the Chief Financial Officer and appropriate supporting records retained. Grant funding exceeding £1,000,000 in total should be approved by Cabinet.</p>	Amendment to delegation and new threshold

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				Approval is not required for renewals of existing grants where the principle has been previously agreed and authorised and the amounts have not significantly changed.	
Part 4	Rules of Procedure - Contract Procedure Rules	100	<p>Appendix G Procurement Executive Group - Terms of Refence Structure and Membership: The Group's membership is:</p> <ol style="list-style-type: none"> 1. Corporate Director (Chief Financial Officer) or nominee 2. Senior Solicitor or Legal Services representative (Chair) 3. Procurement and Insurance Officer 4. Finance representative 5. Internal Audit representative 6. Legal Services representative 7. Corporate Project representative 8. Environmental and Climate Change representative 9. Building Surveyor representative 10. Neighbourhood Services representative 11. Four Councillors: two appointed by Cabinet including the relevant Portfolio lead and two appointed by Audit and Resources Committee. Elected Members should aim to reflect the political make-up of the Council <p>Decision making and Reporting The Group will be considered quorate if there are a minimum of 3 Councillors present.</p>	<p>Structure and Membership: The Group's membership is:</p> <ol style="list-style-type: none"> 1. Corporate Director (Chief Financial Officer) or nominee 2. Service Director – Governance and Support (Chair) 3. Senior Solicitor or Legal Services representative 4. Procurement and Insurance Officer 5. Finance representative 6. Internal Audit representative 7. Corporate Project Delivery representative 8. Environmental and Climate Change representative 9. Building Surveyor representative 10. Neighbourhood Services representative 11. Corporate Strategy Manager 12. Performance Manager 13. Four Councillors: two appointed by Cabinet including the relevant Portfolio lead and two appointed by Audit and Resources Committee. Elected Members should aim to reflect the political make-up of the Council <p>Decision making and Reporting The Group will be considered quorate if there are a minimum of 2 Councillors present, one member of Audit & Resources Committee and one member of Cabinet.</p>	<p>Amendment to role appointed as Chair</p> <p>Typographical error</p> <p>Additional membership</p> <p>Amendment to quoracy</p>

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Part 4	Rules of Procedure - Contract Procedure Rules	156	<p>A General Provisions</p> <p>1.02 These CSOs do not apply to (this is not an exhaustive list):</p> <ul style="list-style-type: none"> i. employment contracts for staff ii. Property/land purchase or sales - refer to Part III of the Constitution iii. contracts to appoint legal counsel and the appointment of expert witnesses in legal proceedings iv. public service contracts awarded to one or more public bodies v. arbitration or conciliation services contracts vi. contracts for the lending or borrowing of money 	<p>1.02 These CSOs do not apply to (this is not an exhaustive list):</p> <ul style="list-style-type: none"> i. employment contracts for staff ii. Property/land purchase or sales - refer to Part III of the Constitution iii. contracts procured by the Head of Legal Services and Data Protection Officer to appoint legal counsel and the appointment of expert witnesses in legal proceedings iv. public service contracts awarded to one or more public bodies v. arbitration or conciliation services contracts vi. contracts for the lending or borrowing of money 	New addition
Part 4	Rules of Procedure - Contract Procedure Rules	157	<p>Paragraph 10.4</p> <p>Every contract which the Council enters into must be recorded on the Contracts and Partnerships Register. This register should be kept updated by every Service Manager and held centrally by the Chief Financial Officer. Details of the contracts register must also be published quarterly on the Council's website as part of the Government's transparency agenda.</p>	<p>Every contract which the Council enters into with a value of more than £5,000 must be recorded on the Contracts and Partnerships Register. This register should be kept updated by every Service Manager and held centrally by the Chief Financial Officer. Details of the contracts register must also be published quarterly on the Council's website as part of the Government's transparency agenda.</p>	Addition (legislative requirement)
Part 4	Rules of Procedure - Contract Procedure Rules	159	<p>10.0 Selection of Successful Tender/Evaluation (for contracts valued £75,000 and above but less than Procurement Regulation Thresholds)</p> <p>10.01 After completion of the tender evaluation, the following shall be authorised</p>	<p>Remove i & ii as paragraph is in relation of contracts valued over £75,000 and less than Procurement Regulation Thresholds so is not applicable. To be amended as follows:</p> <p>10.01 After completion of the tender evaluation, the following shall be authorised</p>	Omission/deletion

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			<p>to accept the most economically advantageous tender, (provided the tender does not exceed the approved budget or fall below the estimate in the case of a payment to the Council):</p> <ol style="list-style-type: none"> i. for tenders valued up to £49,999 - Service Director ii. for tenders valued £50,000 to £74,999 - Corporate Director. iii. for tenders valued above £75,000 - Two Corporate Directors, employee/councillor on project board. 	<p>to accept the most economically advantageous tender, (provided the tender does not exceed the approved budget or fall below the estimate in the case of a payment to the Council):</p> <p>i. for tenders valued £75,000 and above but less than Procurement Regulation thresholds - Two Service Directors and Chair or Vice Chair of Cabinet or Committee (as appropriate)</p>	Amendment to delegation
Part 4	Rules of Procedure – Contract Procedure Rules	160	<p>Contracts £75,000 up to Procurement Regulations Thresholds (exclusive of VAT)</p> <p>Waivers cannot be sought in these circumstances. The Procurement Regulations Thresholds are....</p>	<p>Waivers cannot be sought in these circumstances. The <u>current</u> Procurement Regulations Thresholds are....</p>	New addition
Part 4	Rules of Procedure - Contract Procedure Rules	162	<p>18.0 Selection of Successful Tender/Evaluation (for contracts above Procurement Regulation Thresholds)</p> <p>18.01 The Chair or Vice-Chair of Cabinet, the appropriate Local Area Committee or other committee authorised by the Council for the specific project shall be authorised to accept the most economically advantageous tender, (provided the tender does not exceed the approved budget or fall below the estimate in the case of a payment to the Council).</p> <ol style="list-style-type: none"> i. For tenders valued above Procurement Regulations Thresholds: Two of the following- <ul style="list-style-type: none"> • Corporate Directors, or • Service Directors 	<p>18.01 After completion of the tender evaluation, the following shall be authorised to accepted the most economically advantageous tender (provided the tender does not exceed the approved budget):</p> <p>For tenders above Procurement Regulation Thresholds* (exclusive of VAT):</p> <ul style="list-style-type: none"> • <u>One Corporate Director and one Service Director</u> <p>And</p> <ul style="list-style-type: none"> • The Chair or Vice Chair of: 	Amendment to delegation

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			<p>And</p> <p>The Chair or Vice Chair of:</p> <ul style="list-style-type: none"> • Cabinet, or • The appropriate Local Area Committee, or • Other Committee authorised by the Council for the specific project 	<ul style="list-style-type: none"> i. Cabinet, or ii. The appropriate Local Area Committee, or iii. Other Committee authorised by the Council for the specific project <p>*In addition, for tenders valued above £5,000,000 (exclusive of VAT):</p> <ul style="list-style-type: none"> • The Corporate Director (or their nominee) should participate in the evaluation of submitted tenders; and • the appointment of the successful contractor should be approved by Cabinet or their nominated officer in consultation with the Chair/Vice-Chair of Cabinet. 	Additional delegation
Part 4	Rules of Procedure - Contract Procedure Rules	166	<p>H General Principles Applying to All Contracts</p> <p>28.0 Waivers</p> <p>28.01 All procurement processes and contract awards must comply with these CSOs. There are only limited circumstances (detailed below) where not complying may be authorised.</p> <p>A waiver to these CSOs must be approved in writing (using a waiver form) by one of the following, depending on contract value:</p> <ul style="list-style-type: none"> i. £0 up to £74,999: Corporate Director (or their delegated representative) 	<p>28.0 Waivers</p> <p>28.01 All procurement processes and contract awards must comply with these CSOs. There are only limited circumstances (detailed below) where not complying may be authorised.</p> <p>A waiver to these CSOs must be approved in writing (using a waiver form) by one of the following, depending on contract value:</p> <ul style="list-style-type: none"> i. £0 up to £74,999: Corporate Director (or their delegated representative) 	

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			<p>ii. £75,000 up to Procurement Regulations thresholds: the Councillors appointed to the Procurement Executive Group (PEG) or the Chief Financial Officer. In all instances a majority decision of Councillors should apply however if there is no majority then the Chief Financial Officer (CFO) is able to make the final decision.</p> <p>iii. Over Procurement Regulations thresholds: use of waivers are prohibited.</p>	<p>ii. £75,000 up to Procurement Regulations thresholds: the Councillors appointed to the Procurement Executive Group (PEG) and the Chief Financial Officer (or their delegated representative). In all instances a majority decision of Councillors should apply however if there is no majority then the Chief Financial Officer (CFO) is able to make the final decision.</p> <p>iii. Over Procurement Regulations thresholds: use of waivers are prohibited.</p>	<p>Amendment to delegation</p>