

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Review of the Constitution

Meeting/Date: Corporate Governance Panel – 26th March 2014
Council – 30th April 2014

Executive Portfolio: Councillor T D Sanderson – Executive Councillor for
Strategic Economic Development and Legal

Report by: Head of Legal and Democratic Services

Wards affected: All

Executive Summary:

Under the Local Government Act 2000, local authorities were required to adopt a written Constitution setting out its governance arrangements. Since then the Council has continued to review its Constitution regularly and more recently on an annual basis. The purpose of the review is to identify changes required to the Constitution to reflect new legislation and working practices which have emerged since March 2013, to overcome any inconsistencies which may have arisen and to make positive adjustments to improve or modify the way that the Constitution currently operates.

The terms of reference for the Corporate Governance Panel includes responsibility “to review the Council’s Constitutional arrangements and make appropriate recommendations to the Council”. This report is therefore submitted to enable the Panel to undertake a review in the current year.

Members and Senior Managers Group have been invited to highlight any issues or areas which could be improved, clarified or revised based on experience of the Constitution over the previous year and any submitted will be discussed in this report.

To identify the changes proposed, Members will need to refer to the Constitution available electronically on both the Council’s website and intranet. A copy is available to peruse in the Members’ Room.

Recommendation:

The Panel is requested to consider the recommendations contained in the following report and to recommend to Council accordingly.

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1. WHAT IS THIS REPORT ABOUT/PURPOSE?

1.1 The Council may amend its Constitution at any time. Any change will require reference to the Secretary of State only if the Council proposes to change significantly the present form of executive and scrutiny arrangements.

1.2 It is good practice to review the Constitution on a regular basis if just to take account of updates in legislation and practice and for these reasons the text will require amendment, in any event, to reflect –

- ◆ new legislation; and
- ◆ alterations to –
 - the text generally to update job titles etc;
 - Table 2 – appointments to outside organisations to reflect the addition/variation of appointments; and
 - Table 4 – Scheme of Delegation to incorporate amendments to the Scheme which may have occurred during the preceding year.

1.3 In terms of the Scheme of Delegation (Part 3, Table 4, Pages 81 – 187) [a copy has been circulated to the Members of the Panel only] potential changes to the senior management structure will require many of the delegations to be reassigned. Members can be assured, however, that the local authority may not delegate any decision-making functions without express or implied statutory authority and whilst an authority has wide powers under Section 101 of the Local Government Act 1972 to arrange for the discharge of any of its functions by Committee, Sub-Committee or by an Officer, that power has to be lawfully delegated based on proper interpretation of a resolution.

1.4 In November 2011 and Spring 2013, the Council was similarly affected by changes to the senior management structure. In 2011, the Corporate Governance Panel and subsequently the Council agreed, given the resulting changes required to the Scheme of Delegation and the likelihood that these would be generally administrative within principles established by Statute, that the Head of Legal and Democratic Services be authorised, after consultation with the Chairman of the Panel to make any necessary amendments to the Scheme relating solely to the structure of the organisation and post titles and not to substantive change and to make any further adjustments when these are considered to be necessary in the future. In practice, this authority has been used sparingly in the past year but it is considered essential that this remains in place given the changes ahead.

2. OPTIONS TO BE CONSIDERED/ANALYSIS PART 3 – RESPONSIBILITY FOR FUNCTIONS

2.1 Corporate Governance Panel

(Table 2, page 71 and Table 4, Scheme of Delegations page 125)

Under a review of its effectiveness last September, the Corporate Governance Panel recommended the adoption of new terms of reference. These included under the heading ‘**Fraud and Corruption**’ –

“12. Monitoring the Anti-Fraud and Corruption Strategy and receive annual updates on countering fraud.”

Subsequently, Chief Officers’ Management Team (COMT) has suggested that the monitoring element of this function should be better directed towards the

appropriate Overview and Scrutiny Panel as part of their continuing work on performance monitoring. It is within the remit of the Overview and Scrutiny Panels to “review the performance of the Council and the achievement of performance indicators and targets” (Article 6, page 23). **Accordingly, it is recommended that the function ‘Monitoring the Anti Fraud & Corruption Strategy’ be deleted from paragraph 12 of the terms of reference of the Panel and that, in future, performance information produced by the Corporate Fraud Team be submitted to the relevant Overview and Scrutiny Panel.**

The Panel would continue to receive annual updates on countering fraud.

Currently, the Scheme of Delegation of the Corporate Governance Panel enables the Head of Legal and Democratic Services to approve payments of up to £1,000 in compensation to complainants under the District Council’s complaints system after consultation with the Chairman of the Panel and subject to details of any payments being reported to the ensuing meeting of the Panel.

Mindful of the extent of business regularly tabled for the Panel to consider, Members might wish to consider varying that part of the delegation which requires a report to the next convenient Panel meeting. Currently, the Head of Legal and Democratic Services is required to report to COMT at six monthly interviews on complaints received and lessons learned. The Panel also receives an annual report on complaint outcomes and trends both for internal complaints and those referred to the Local Government Ombudsman. Given the framework that exists for reviewing received/outcomes of complaints, and given that the Chairman of the Panel still would be consulted before payments of over £1,000 are made, **the Panel is requested to consider deleting the requirement for a report to be submitted to an ensuing meeting following payment in settlement of a complaint.** (See paragraph 2.2 should this function be transferred to the Standards Committee, it is suggested that the same would apply.)

2.2 **Corporate Governance Panel/Standards Committee** (Table 2, pages 67-69, 71-75)

In March 2013, the Corporate Governance Panel was requested to consider both its own Constitution and that of the Standards Committee. There was a view, at that time, that the terms of reference and title of the Corporate Governance Panel should be varied perhaps to an Audit and Accounts Committee so that its functions related solely to risk management, audit, accounts and resources for example with the governance, constitutional and possibly complaints responsibilities transferred to the Standards Committee or to a re-named Governance and Standards Panel for instance.

This suggestion also arose because of the contrast in the workload of each. The Corporate Governance Panel has become increasingly busy in recent years as greater emphasis has been placed on governance issues. At the same time, the demise of “Standards for England” and the impact of the Localism Act 2011 has resulted in a lower profile standards regime and a subsequent reduction in the level of business considered by the Standards Committee.

At a meeting of the Chairmen, Councillors E R Butler and A Hansard considered several options for change and the current arrangements made by other Cambridgeshire Authorities dealing with corporate governance and

standards issues and recommended their preferred approach to the Standards Committee

At their meeting on 6th March, the Standards Committee indicated that they would wish the Committee and the Corporate Governance Panel to continue to operate as separate principal bodies and that were the Panel/Committee to be renamed to reflect any new functions it should retain the word "Standards" within its title in order to promote and maintain the profile of the Code of Conduct and the continuing importance of high standards of conduct by Councillors and other related protocols within the Constitution. Members also supported a limited transfer of functions from the Corporate Governance Panel and the Elections Working Group to the Committee.

Having regard to the current terms of reference of the Panel and Committee, Members were of the view that the following functions could be transferred and be undertaken, in future, by the Standards Committee rather than the Corporate Governance Panel –

- ◆ considering proposals to change the Council's Constitutional arrangements and making appropriate recommendations to the Council (a function formerly undertaken by Standards);
- ◆ determining the Council's Customer Feedback Procedure, monitoring compliance with the procedure, compensatory payments to complainants and formulation of recommendations to the Cabinet or Council on any action to be taken as a consequence; and
- ◆ considering reports by the Local Government Ombudsman, approval of compensatory payments to complainants and formulation of recommendations to the Cabinet or Council on any remedial action to be taken as a consequence.

Although ultimately, certain issues still would be reserved to Council as part of the policy and statutory framework, Members also supported the suggestion that the following matters relating to electoral arrangements also could fall to be dealt with by the Standards Committee rather than the Elections Working Group as at present. Electoral arrangements in its widest sense might involve –

- ◆ the review of District and Parish electoral arrangements including boundaries;
- ◆ matters relating to the powers of a Parish Council, numbers of Parish Councillors and new Parish Councils and Parish Wards;
- ◆ District and District Ward boundaries arising from any review; and
- ◆ the periodic electoral review.

The Working Group currently meets as and when required (one meeting in 2013) so would not add too great a burden to the Committee.

Given that the potential transfer of functions impacts on the workload of the Corporate Governance Panel, the Panel is requested to consider the matter and to recommend accordingly.

2.3 **Employment Panel**

(Table 2, page 70, Table 4, page 85)

New arrangements for streamlining consideration of employment matters were approved during the 2013 review. These arrangements provided for the following employment matters to be delegated to the Head of Paid Service –

'To deal with the following employment matters –

- (i) to make all staff appointments below Head of Service;
- (ii) to determine salary and terms and conditions of all posts in accordance with adopted human resources policies;
- (iii) to negotiate and implement local pay awards in compliance with any limitations contained in the Code of Financial Management following consultation with the Chairman of the Employment Panel and the Executive Leader;
- (iv) to negotiate and implement changes to terms of conditions of employment and human resource policies;
- (v) to be responsible for consultation and information sharing arrangements with staff;
- (vi) to administer the provisions of the Local Government and Housing Act 1989 relating to politically restricted posts; and
- (vii) to be responsible for exercising employer discretions in relation to the Local Government Pension Scheme for staff below Chief Officer'.

The Employment Panel has recently undertaken its annual review of its terms of reference and was of the opinion that there were no specific changes required. However, in a year when there have been several changes to employment policies, interpretation of the role of the Panel under the new terms and the extent of delegation to the Head of Paid Service has proved problematic.

Paragraphs (iii) and (iv) of the delegation has authorised the Head of Paid Service to negotiate and implement but not determine local pay awards and changes to terms and conditions. Similarly, the Panel's terms of reference provide for it to make recommendations to Council and/or Cabinet in relation to employment and workforce practices within the Council but not to approve.

Either the terms of reference of the Panel or delegation to the Head of Paid Service require clarification as to where determination of pay awards and new policies should lie. In the absence of such clarity over the year, the Panel has indicated their support for proposals allowing the Head of Paid Service to implement changes as authorised. The Head of Legal & Democratic Services recalls that it was the Panel's intention that the Head of Paid Service be authorised to actually determine local pay awards after negotiation **To overcome this uncertainty, it is proposed that the third bullet point of the Panel's terms of reference on page 70 of the Constitution be amended such that the words 'report' be deleted so the function would read –**

- ◆ **to make recommendations in relation to employment and workforce practices within the Council;**

It also is suggested that paragraph (iii) of the authority delegated to the Head of Paid Service be amended to enable the postholder to 'negotiate, determine and implement local pay awards etc.....'

During the same exercise, functions relating to the Employees' Code of Conduct were deleted from the Panel's terms of reference. Whilst responsibility for the Employees' Code of Conduct (Employee Handbook) could arguably be considered as a role for either the Standards Committee or Corporate Governance Panel it is the view that this should remain a function of the Employment Panel given their overall responsibility for "People Management".

It is recommended that the following function be re-inserted into the terms of reference of the Employment Panel –

“to monitor and advise the Council on the adoption, revision, content and operation of its Code of Conduct for Officers (Employee Handbook) in the light of best practice, changes in law and guidance.”

2.4 **Member Champions**

The District Council has, in the past, appointed a number of Member Champions often because they were specialists in particular areas or held expertise which enabled them to advise on specific areas of interest. Arguably they existed to ensure that the issue they were championing was taken into account or given a profile when Council policy was being reviewed or decisions made but which might not be the responsibility of any Committee or Panel. For convenience, Member Champions were, at one stage, listed in the Constitution although they had no particular status in law. Arising from the review of the effectiveness of the Overview and Scrutiny Panels, it was recommended that the appointment of Member Champions be formalised and a list of appointments maintained. It was also recommended that Chairmen should promote the appointment of the Member Champion role. Currently two Member Champions act on behalf of the Document Centre and Conservation and Heritage issues.

Part 3 of the Constitution specifies where certain functions and responsibilities lie. Should it be the Panel's view that a list of appointments be maintained, it would be reasonable to include such information in this section of the Constitution. For consistency, the Panel may also consider that Member Champions should be appointed by the Executive Leader.

It is recommended that the practice of using Member Champions be re-established formally, that they be appointed by the Executive Leader as appropriate and listed for clarity and convenience in Part 3 of the Constitution.

3. **PART 4 – RULES OF PROCEDURE**

3.1 **Role of the Council**

(Article 4, pages 15 – 17 and Council Procedure Rules (Standing Orders) pages 191 – 211)

Article 4 lists the powers that have been reserved to Council. These relate to the approval of the budget and various policies and strategies that together make up the Council's policy and budgetary framework. Therefore, the Council remains the arena in which the important policy and budget decisions are made. Attempts have been made over recent years to enliven Council meetings and encourage public attendance. Initiatives introduced following the last review of the democratic structure in 2009 have had limited success.

As it is now five years since the last review of the Council meeting itself, Members may feel that it is opportune to look at the way the Council currently operates. It is suggested that the following features are retained without need for further discussion or variation -

- ◆ the opportunity for the public to ask questions;
- ◆ 7 pm start time (6 pm for the Annual Meeting); and

- ◆ the opportunity for the public to present petitions containing more than 50 signatures.

Some of the initiatives are enshrined within the Council Procedure Rules (where written guidelines are required to ensure that they operate consistently) and others are practised informally. For convenience both aspects are discussed in this Section -

(a) **Headline Debate**

It was the original intention that major policy decisions reserved to Council should be the subject of debate at Council meetings before public consultation as well as arrangements made for single issue debates (with the Principal Opposition invited to choose the subject for debate at one meeting per annum). Whilst there have been some notable debates, the choice of robust debate topics has often been handicapped when policies and strategies have already been the subject of public consultation, agreement with partners and discussion at Scrutiny and Cabinet en route to Council. Often there is little left to discuss.

There has been a greater tendency for single issue debates and these have proved more successful - those led by the Chief Constable, Andrew Stunell, MP and the DCLG on the National Planning Policy Framework for instance. Given the other significant issues facing the authority and local government generally and the importance of meeting time for the Council to consider these matters in the detail required, it is proposed that single issue debates on matters of topical issues be retained with external speakers/organisations invited to brief Members on issues of relevance and significance but that these debates occur only as and when such topics arise or can be identified by the Council Programme Group. It is no longer considered necessary to make specific arrangements for debates on major policy decisions as these should take place, in any event, during the normal course of the Council's business.

As the Leaders of the Opposition Groups are represented on the Council Programme Group and, in practice, contribute fully to suggestions for debate items it is also considered to be no longer necessary to reserve one meeting per annum for that purpose.

Members' views are invited.

(b) **Green Paper**

The Green Paper feature was designed to enable Executive Councillors to give early notice to the Council of the launch of new policy initiatives and proposals and to raise these at Council meetings on a more informal basis prior to wider consultation. Whilst arguably this has not been successful, it is an area which could be further developed and it is proposed that the Senior Managers' Group could become more actively engaged in identifying emerging policies on a regular basis. It may also be considered more appropriate 'Green Paper' items were presented to Overview and Scrutiny Panels rather than Council.

Alternatively, the Deputy Executive Leader has suggested that provision be made for one (or two) Members per meeting to be able to

address the Council for up to 10 minutes on matters relevant to the Council's business which may be of concern/interest to them. Guidelines for such provision would need to be drafted but it is anticipated that these would require advance notification of issues to be raised and a way to register Members' requests to speak.

Members' views are invited.

(c) **Frequency and timing of meetings**

During the last review and given the number of initiatives involved at that time, it was considered that there may be a need for additional meetings of Council. Consequently meetings of Council were increased to six from five (plus the Annual Meeting) each year. It was also agreed that meetings should commence at 7 pm (rather than 2.30 pm) to encourage public attendance and enable guest speakers from partner and other organisations to attend for debate items. It is the view that Council meetings should continue to take place at 7pm but suggested that the number of meetings per annum be reduced by one to five (plus the Annual Meeting). Experience has shown that the meeting of the Council in November has, since 2009, been light in the terms of business it has had to consider given it has no clear role in the cycle for example in financial or service planning terms, unlike the September meeting, which considers the Financial Strategy with which the Annual Budget and MTP is to be prepared.

It is recommended therefore that the November Council meeting be deleted from the calendar.

(d) **Presentations by Executive Councillors/Annual State of the District Address** (*page 205, paragraph 12*)
Oral Questions by Councillors
(*page 194 paragraph 8.3*) and Guidelines (*page 213 Annex [i]*)

Paragraph 12 of the Council Procedure Rules refer to the Annual State of the District Address. In recent years this has been resurrected by the Executive Leader who has taken the opportunity at the September meeting to address Members on the activities of the Council in the previous year and his plans for the year ahead. Members might consider that this address should be better delivered at the first meeting in each municipal year either in June or July. Should this suggestion be supported **it is recommended that the word "autumn" in paragraph 12.1 be deleted and replaced by the word "summer".**

Subsequent meetings, therefore, would present the opportunity for Members of the Cabinet to update the Council on relevant issues within their portfolios by way of a written report which would be included within the Council Book. This could include updates on new policy/initiatives or progress on significant issues and on conclusion of presentations a period could be set aside for the Council to ask questions of portfolio holders specifically and the Cabinet in general. This would allow the Council to hold the Executive (the Cabinet) to account. Developing this theme further, it is suggested that the current separate 30 minute period for questions by Councillors be discontinued but that the opportunity to ask questions be programmed after presentations by Executive Councillors.

The guidelines for oral questions (*page 213*) would also remain unchanged other than paragraph 4 as clearly there would no longer be a requirement to complete a pro forma slip in advance of the Council meeting to indicate that a Member wishes to ask a question. Questions may be asked in response to the contents of the address by the Executive Councillor and on any other matter in accordance with Annex (i), paragraphs 1 and 2. The prescribed period for questions of 30 minutes would be no longer necessary. Currently questions may also be asked of the Chairmen of a Committee or Panel. It is proposed that this opportunity should remain and that a separate item be placed on the agenda for this purpose. For clarity, the current Constitution already provides for written questions to be raised as a 'matter of urgency'.

To seek to make the period for questions more meaningful it is proposed that where Councillors have questions requiring a detailed and lengthy reply that they be encouraged to submit them to the Head of Legal and Democratic Services by noon at least eight clear working days in advance of the meeting to enable a draft response to be prepared in advance. This practice would seek to overcome the need for written answers to be drafted for the questioner after the meeting. If this proposal is supported paragraph 8.3 would be amended accordingly.

The Panel is requested to support the proposed changes to the scheduling of the Annual State of the District Address and the adjustments to the arrangements for oral questions to the Executive Leader, Deputy Leader and Executive Councillors and Chairmen of Panels etc

(e) **Council Programme Meeting**
(*Article 5 - Chairing the Council*)

Article 5 discusses the role and function of the Chairman of the Council. In terms of the procedural duties of the Chairman, he/she also has responsibility to "liaise with the Deputy Executive Leader and the Leaders of Opposition Groups and Independent Councillors on the business to be conducted in Council meetings." In practice, the Chairman of Council chairs the Council Programme Group which meets mid-way between Council meetings to discuss future business. It also has been suggested that, in future, Chairmanship of this Group should lie with the Deputy Executive Leader. Whilst this Group has clearly improved the future programming of business for the Council meeting there might be a case, if it is to be retained, that its business planning role should be further enhanced by having regular sight of the agenda plan documents for Cabinet and Overview & Scrutiny.

The views of the Panel are invited to comment on whether to retain the Council Programme Group in its current format, to transfer its chairmanship to the Deputy Executive Leader and to broaden its business planning role such that it also has sight of Cabinet and Overview & Scrutiny Panel agenda plans when discussing the programme for future meetings.

(f) **Non Constitution Matters relating to Council meetings**

(i) Layout of Civic Suite

For sometime, there has been some disquiet on the part of Members as to the current layout of the Civic Suite for Council meetings. To seek to avoid a situation whereby the Cabinet have their backs to Members when speaking, an alternative layout will be trialled at a future meeting with the Cabinet facing the body of the meeting.

(ii) Reports of the Cabinet, Panels and Committee

To streamline the presentation of reports to the Council and to generate meeting time to enable Council to focus on significant rather than routine matters it is suggested that, with the exception of the reports of the Overview & Scrutiny Panels, reports of Panels where items are submitted for information only should be discontinued. Reports would continue to be submitted where Panels are recommending a course of action to the Council meeting. Members are reminded that monthly editions of the "Decision Digest" will continue to summarise the business considered and decisions taken by Panels and that this is circulated in various formats, via the Member Alert and published on the Members' Homepage and with the Overview & Scrutiny Panel agenda. The Digest could also be despatched separately with the Council agenda should Members consider that it could be useful to do so. It is also proposed that Chairmen should remain in their positions when presenting reports (with recommendations) rather than coming forward to the lectern.

Members are requested to note commencement of these new arrangements.

3.2 Other matters relating to the Council Procedure Rules

(a) **Motions Without Notice**
(paragraph 10, page 196)

Currently there is no provision in the Constitution to regulate the submission of an "alternative budget" to the Council which has in the past led to confusion at the budget-making meeting in February and no opportunity for Officers to give advice to the proposer and the Council on the affordability or practicality of any "alternative" proposal. To better manage this process and facilitate the presentation of any potential "alternative budget" by opposition groups, it is **recommended that the following paragraph be inserted after (h) –**

'(i) in the case of proposed amendments to recommendations on draft or final budgets, Leaders of the Opposition Groups shall seek the advice of the Responsible Financial Officer at least 2 working days prior to the meeting to enable the implications of the proposed amendment to be reviewed and calculated for presentation to the Council.'

The consequential alphabetical list would be amended accordingly.

(b) **Voting**
(paragraph 14, page 205)

Section 14 of the Rules relate to voting. Unless a recorded vote is requested, matters are decided by a simple majority of those Members voting and present in the room when a question is put.

The Local Authorities Standing Orders (England) (Amendment) Regulations 2014 came into force on 25th February 2014. Put simply, these Regulations provide that votes at key budget decision meetings by local authorities are recorded. It is the view of the Government that this new requirement will increase Council transparency and accountability over Council Tax. The Regulations make it mandatory for Councils, as soon as practicable, after the Regulations are in force to amend their Standing Orders so as to include provisions requiring recorded votes at budget meetings. Accordingly, the Panel is **recommended to approve the addition of the following paragraph in Section 14 of the Rules.**

'14.7 - when the vote is taken at a budget decision meeting of the Council, there must be recorded in the Minutes of the meeting, the names of the Members who cast a vote for or against the Motion or who had abstained from voting.

(In this context, "budget decision meeting" means the meeting of the Council where the final budget and Council Tax precept is decided.)

It was the expectation of the Department for Communities and Local Government that all Councils would adopt the practice of recorded votes at this year's budget and Council tax meeting in line with the Regulations even if the Council had no opportunity to formally amend their Standing Orders in time. In accordance with this advice, the Council resolved at their meeting on 26th February to hold a recorded vote in line with the Regulations.

4. OVERVIEW AND SCRUTINY PROCEDURE RULES

(pages 255 – 262 also Article 6, pages 21-26)

4.1 The Overview & Scrutiny Panel Chairmen and Vice Chairmen have met with the Deputy Executive Leader to discuss his suggestions for the future operation of overview and scrutiny. There is general agreement that the Panels should operate in a manner similar to that of a Select Committee. This can be introduced without any change to the Constitution.

4.2 As the new Corporate Plan had not been completed at this stage and given that this could have implications for the Cabinet portfolios, the Chairmen and Vice-Chairmen indicated that they wished to look in more detail at what the options might be. This work will commence imminently. Therefore, no changes are proposed to Article 6 and the Overview & Scrutiny Procedure Rules at present.

The Panel are asked to note this position.

5. CODES OF FINANCIAL MANAGEMENT AND PROCUREMENT

(pages 263 – 299)

5.1 As part of the review exercise, the opportunity is always taken to propose changes to the Codes of Financial Management and Procurement should these be necessary.

- 5.2 The Codes are important elements of the Council's Constitution that detail sound governance principles for the activities. It is important that they are "live" documents that adapt to the changing needs of the Council and that they are reviewed regularly.
- 5.3 The draft Codes are attached at Appendices A and B and changes are highlighted. Changes to the **Code of Procurement** impact on the following sections –

EU Thresholds

(Sections 2.1 and 2.2)

The revised (increased) EU thresholds effective from 1st January 2014 have been incorporated into the tables and have been circulated to all Managers.

Sourcing Policy

(Section 5.6)

The formal "threshold" (£5k) has been unchanged since at least 1999 and does not reflect the increased cost of goods and services over that time. Formal quotes are "simplified tenders" but nevertheless are disproportionate effort for such a low level of spend. There is anecdotal evidence that the formal quote process is inhibiting suppliers from providing quotes for the lower value requirements. Revision of the threshold upwards to £10k would realign the threshold nearer its original "purchasing power" and reduce the frequency of formal procurement action. A simple requirement to get three written quotes for purchases between £1k and £10k would maintain the essential element of competition whilst easing the administrative burden. The following table shows a summary of the proposed changes to procurement thresholds –

Estimated total value of procurement

Existing threshold	Summary of the Process	Proposed threshold
Up to £5,000	Single quote	£1,000
	At least 3 quotations offers invited in writing (email on suppliers headed paperwork)	£1,000 up to £10,000
£5,000 up to £50,000	At least 3 formal quotations invited	£10,000 up to £50,000

Supplier Meetings/Briefings

(Section 5.9)

Supplier engagement or "soft market testing" is a pre-competition process to encourage the market to bring innovative and cost-effective solutions. Whilst the process can bring benefits in refining the requirement and understanding the markets capabilities, there are significant compliance risks. The principal ground for challenge is that some suppliers receive an unfair advantage through the provision of relevant information not made available in any subsequent competition. Likewise supplier open days need to run to avoid any differences in the information provided. This change outlines steps to ameliorate that risk:

- preference for an open day format;

- all questions and answers recorded with a minimum of two officers present;
- and the appropriate number of suppliers invited.

Evaluations

(Section 6.4)

The proposed change is a requirement to consider two specific evaluation criteria:-

- ◆ the Social Value Act 2012 requires consideration of possible social benefits deliverable in a procurement exercise; and
- ◆ Government Policy encourages structuring competitions for greater participation of Small and Medium Enterprises (SMEs). This may also encourage more local participation as the majority of local firms are SMEs.

Tender/Quotation Opening

(Section 9.9)

The existing Rule does not allow any discretion in the acceptance of late tenders. This does not fit the current case law which does give Authorities latitude to accept late tenders under some circumstances. The risk is that we would reject tenders in circumstances where the Courts have decided that this should be admitted.

Consultants

(Section 17)

There are circumstances where the Inland Revenue can deem a consultant engaged by the Council is a “de-facto employee” making the Council liable for national insurance and other charges as well as the potential for a fine. The proposed changes require that any terms and conditions of the engagement of consultants have a clause requiring the contractor to indemnify the Council against that risk.

Code of Financial Management

Several changes are proposed to the Code of Financial Management. These reflect both adjustments to financial management procedure to financial management and the new management structure.

Where previously the Code referred to:

- i. Assistant Director (Finance and Resources); this is now the Chief Financial Officer; as the designated Section 151 Officer (Local Government Act 1972) and Chief Financial Officer (Accounts and Audit Regulations 2011), and
- ii. Accountancy Manager, this is now the Deputy Chief Financial Officer; as the designated Deputy Section 151 Officer.
- iii. Head of Legal and Democratic Services; this is now the Monitoring Officer

The main changes to the Code of Financial Management are summarised below. However, the list does not include the post title changes noted above as this would distract from the aim of showing only the “main changes”.

Paragraph No.	Section	Change
3.1	Financial Monitoring	Clarification of financial monitoring by budget managers; including reporting to the Chief Financial Officer and Corporate Management Teams, the publication of the Financial Performance Monitoring Suite and the Financial Dashboard.
3.6	Budget Transfers	Note in respect of Technical Budgets and that they are the responsibility of the Deputy Chief Financial Officer.
4.2	Income	<ul style="list-style-type: none"> Inclusion of the responsibility of the Head of Customer Services to manage the Council Tax and Non-Domestic Rates collection service. Clarification that the Deputy Chief Financial Officer manages a “sundry” debts debt collection service.
4.3	Treasury Management	The inclusion of the Treasury Management Advisory Group.
5.2 (and 5.9)	Annual Financial Report	Change of title, from the Statement of Accounts to Annual Financial Report.
5.3	Records	Inclusion of a payments control that was approved by Council in November 2013; in respect of cross-referencing of contracts with general ledger invoice/payment records.
6.3	Assets (Capital): Acquisition	Clarification in the approach to the acquisition and disposal of capital assets, including achieving “Best Value” and approval from the Capital and Treasury Strategy Group.
6.4	Assets (Capital): Disposal	
6.7	Valuations	Clarification on when assets are to be valued outside of the three year “phased” revaluation programme.
Annex B	Budgets for Pay	The contingency pay budget is removed. Where in-year pay savings are identified in excess of approved MTP savings, appropriate budget adjustments will be made and savings achieved transferred to the “centre” to meet the MTP approved unallocated savings.

The Panel is requested to recommend the Council to adopt the Codes of Financial Management and Procurement (as amended).

6. PART 7 – MANAGEMENT STRUCTURE
(Page 393 – 396)

6.1 The Management Structure describes the responsibility of the designated statutory posts – the Head of Paid Service, Chief Financial Officer and Monitoring Officer and the way in which the functions and services are discharged by the organisation. This is a standard feature of the model Constitution. As the Council is currently undertaking a review of its senior management structure, potentially this section could need significant change.

As this exercise may not be completed until late Spring, it is **recommended that the Head of Legal and Democratic Services be authorised to make such amendments as necessary to Part 7 of the Constitution to reflect the new management and organisational structure of the Council.**

7. TIMETABLE FOR IMPLEMENTATION

- 7.1 The recommendations of the Panel on the outcome of the review will be submitted to the Council on 30th April for implementation with effect from the date of the Annual Meeting – 4th June 2014.

BACKGROUND PAPERS

Huntingdonshire District Council Constitution.

CONTACT OFFICER

Christine Deller, Democratic Services Manager
(01480) 388007.