

COMMITTEE: **AUDIT COMMITTEE**
DATE: **1 DECEMBER 2016**
TITLE: **REVIEW OF THE CONSTITUTION**
PURPOSE OF THE REPORT: **REPORT ON THE REVIEW CONSTITUTION**
AUTHOR: **IWAN G D EVANS – MONITORING OFFICER**
ACTION: **FOR DECISION**

1. Background

The revised Constitution was adopted by the Council in July 2014. It was based on a model constitution developed nationally.

Obviously the adoption of a new constitution was a considerable piece of work from a governance perspective and a Working Group from the Audit Committee supported the Monitoring Officer in this work. You will be aware that changes to the constitution have been reported to Council from time to time since its adoption. These changes stem primarily from changes to legislation and some matters which needed to be strengthened or explained. However following 2 years operating the constitution I was of the opinion that it was timely to review its implementation and open a discussion. It was not the intention to re-write the constitution but rather to ensure that it worked for the Council and identify areas where improved clarity or amendments were needed.

2. Establishing a Working Group

This initial work has given rise to some matters which need more detailed and deeper consideration. Although these matters are not inevitably fundamental changes there may be a need to measure the implications of some changes from the perspective of the Council's arrangements. Therefore to this end and by mapping out the path for bringing these matters before Council I would be keen to re-establish the Working Group of 7 members to support this work. I do not anticipate that there will be many meetings but it would be a forum to provide a view on the way forward.

3. Amendment of Financial Procedure Rules

As the review proceeded some matters became apparent which could be addressed immediately. A report will be going before the Council in December on amendments to the Officers Delegated Powers which reflect changes to departments and statutes. In addition a request was made to amend the Financial Procedure Rules.

Currently the following provision is found in the Financial Rules

16.6.37 Following receipt of capital from the disposal of property, unless there is a decision to the contrary by the Cabinet, 20% will go to the department (up to a maximum of £20,000) and the remainder to the corporate fund. The Chief Officer will have the right to use capital receipts that are within the

control of the department where the value of that use is not in excess of £50,000. Approval by the Cabinet will be required for such use where the amount is in excess of £50,000.

It is fair to say that this arrangement was established at a point in time where the Council's financial situation was completely different to that which is seen today. At that point there was less central control on property matters and it related to a period before the adoption of the Asset Management Plan.

By today all the Council's property has been declared to be a corporate asset and is managed centrally. By today the financial situation has changed completely of course and there is little incentive needed for departments to release underutilised property because it will enable them to make revenue savings.

The Council faces significant cuts in the capital budget which is available to achieve the priorities in its capital programme, the opportunity needs to be taken to maximise the capital which is available from the sale of assets to achieve our priorities. As a result of the current arrangements allowing Departments to keep 20% of every capital receipt (up to a maximum of £20,000) means some £877,000 has been allocated to departmental priorities as opposed to diverting it directly towards the priorities which have been included in the Capital Programme. If a Department has a valid case to keep part of the capital receipts in future then it will be possible to make a specific application. At that point members can consider the advantages and risks attached to that specific plan.

The proposed change is to remove the first part of the paragraph:

~~16.6.37 Following receipt of capital from the disposal of property, unless there is a decision to the contrary by the Cabinet, 20% will go to the department (up to a maximum of £20,000) and the remainder to the corporate fund. The Chief Officer will have the right to use capital receipts that are within the control of the department where the value of that use is not in excess of £50,000. Approval by the Cabinet will be required for such use where the amount is in excess of £50,000.~~

The Committee's view is sought on the proposed change.

Recommendation :

1. Note the Report
2. Appoint a Working Group of 7 Members to consider the results of the Review of the Constitution
3. Recommend the change in the Financial Rules.