

Public Document Pack



PLEASE NOTE THAT PRAYERS WILL BE HELD AT 6.50PM BEFORE THE COMMENCEMENT OF THE BUSINESS OF THE COUNCIL.

THE MAYOR REQUESTS THAT ANY MEMBER WISHING TO PARTICIPATE IN PRAYERS BE IN ATTENDANCE BY NO LATER THAN 6.45PM.

Dear Sir/Madam,

You are summoned to attend the Annual Council meeting of the Borough Council of Newcastle-under-Lyme to be held in the **Queen Elizabeth II & Astley Rooms - Castle House, Barracks Road, Newcastle, Staffs. ST5 1BL** on **Wednesday, 17th May, 2023** at **7.00 pm**.

B U S I N E S S

1 APOLOGIES

2 DECLARATIONS OF INTEREST

To receive declarations of interest from Members on items contained within this agenda.

3 MINUTES OF A PREVIOUS MEETING

(Pages 5 - 12)

To consider the Minutes of the previous meeting(s)

4 ELECTION OF MAYOR 2023/24

When the Mayor has declared the result of the election, the Mayor, preceded by the Mace Bearers, will retire from the room, accompanied by the Chief Executive and the Mayor Elect.

The Mayor Elect will then be robed and invested with the chain of office. The Mayor Elect will then return to the meeting room preceded by the Mace Bearers and accompanied by the Chief Executive.

The Mayor will take the chair and make the declaration of acceptance of office.

5 APPOINTMENT OF DEPUTY MAYOR 2023/24

Following the appointment of the Deputy Mayor, he/she will make the declaration of acceptance of office.

6 MAYORAL APPOINTMENTS

The Mayor will announce appointments to Civic Roles for the forthcoming year.

7 MAYORAL ADDRESS

To receive the Mayoral address.

8 VOTE OF THANKS TO THE RETIRING MAYOR AND MAYORESS

In appreciation of their services during the past year, the Group Leaders will lead a vote of thanks to the retiring Mayor and Mayoress.

9 RESPONSE OF THE RETIRING MAYOR AND SUMMARY OF THE MAYORAL YEAR

Retiring Mayor's response.

10 APPOINTMENT OF DEPUTY LEADER AND CABINET

The Leader will report the appointment of the Cabinet and Deputy Leader for 2023/24.

11 APPOINTMENTS TO COMMITTEES, CHAIRS AND VICE CHAIRS (Pages 13 - 16) FOR 2023/24

To appoint Members to committees. Appendix to follow.

12 REVISED FINANCE AND CONTRACT PROCEDURE RULES (Pages 17 - 22)

Appendix to follow

13 CONSTITUTION UPDATE (Pages 23 - 28)

14 URGENT BUSINESS

To consider any communications which pursuant to Section B4, Rule 9 of the constitution are, in the opinion of the Mayor, of an urgent nature and to pass thereon such resolutions as may be deemed necessary.

15 DISCLOSURE OF EXEMPT INFORMATION

To resolve that the public be excluded from the meeting during consideration of the following report(s) as it is likely that there will be disclosure of exempt information as defined in paragraphs contained within Part 1 of Schedule 12A (as amended) of the Local Government Act 1972.

Yours faithfully



Chief Executive

NOTICE FOR COUNCILLORS

1. Fire/Bomb Alerts

In the event of the fire alarm sounding, leave the building immediately, following the fire exit signs..

Fire exits are to be found at the side of the room leading into Queens Gardens.

On exiting the building Members, Officers and the Public must assemble at the statue of Queen Victoria. DO NOT re-enter the building until advised to by the Controlling Officer.

2. Mobile Phones

Please switch off all mobile phones before entering the Council Chamber.

3. Notice of Motion

A Notice of Motion other than those listed in Procedure Rule 14 must reach the Chief Executive ten clear days before the relevant Meeting of the Council. Further information on Notices of Motion can be found in Section B5, Rule 4 of the Constitution of the Council.

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

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Agenda Item 3

Council - 05/04/23

COUNCIL

Wednesday, 5th April, 2023
Time of Commencement: 7.00 pm

[View the agenda here](#)

[Watch the meeting here](#)

Present: Mayor - Councillor Gillian Burnett (Chair)

Councillors:	Allport	Heesom	Stubbs
	Barker MBE	Holland	Sweeney
	Beeston	Fox-Hewitt	J Tagg
	Bettley-Smith	Hutchison	S Tagg
	Brockie	Johnson	Talbot
	Brown	D Jones	P Waring
	Bryan	Northcott	Whieldon
	Crisp	Panter	G White
	Dymond	Parker	S White
	Edginton-Plunkett	Reece	Wilkes
	Gorton	Richards	G Williams
	Grocott	Skelding	J Williams

Apologies: Councillor(s) Adcock, Fear, S Jones, Lawley, Moffat, J Waring and Wright

Officers:	Geoff Durham	Mayor's Secretary / Member Support Officer
	Martin Hamilton	Chief Executive
	Simon McEneny	Deputy Chief Executive
	Daniel Dickinson	Service Director - Legal & Governance /Monitoring Officer
	Sarah Wilkes	Service Director - Finance / S151 Officer
	Roger Tait	Service Director - Neighbourhood Delivery

1. **DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

2. **MINUTES OF A PREVIOUS MEETING**

Resolved: That the minutes of the meeting held on 15 February, 2023 be agreed as a correct record.

3. **MAYOR'S ANNOUNCEMENTS**

The Mayor made two announcements:

Council - 05/04/23

- Members who had attended the Mayor's Ball last Friday were thanked for their support. The event had raised over £2100 for the Mayor's Charity Fund.
- A celebration service for the coronation of King Charles III would take place on Sunday 7th May, 2023 at St Giles' Church.

Councillor Dave Jones was invited to speak on behalf of former Councillor Silvia Burgess who wished to thank Members and officers for their support during her recent bereavement.

[Watch the announcements here](#)

4. WALLEYS QUARRY UPDATE

The Leader, Councillor Simon Tagg introduced a report updating Members on the Statutory Odour Nuisance assessments in relation to Walleys Quarry. An addendum to the report was tabled at the meeting.

The report assessed evidence collated during the 5 month period where the abatement notice had been upheld.

Residents who were interested in the abatement notice procedure were urged to read towards the end of the report, which indicated what the Council and the Environment Agency (EA) could achieve.

Concerns were raised about the EA's plans to decommission the monitoring station (MMF6), situated at Newcastle Fire Station. The current four stations constituted a monitoring network across the affected areas. The Leader was asked to confirm that the Council would ask the EA that the monitoring station (MMF06) must remain.

Some residents had experienced problems with the online forms for reporting issued. The Leader was asked if those problems had been resolved.

Resolved: That the report and its contents be noted.

[Watch the debate here](#)

5. STATEMENT OF THE LEADER OF THE COUNCIL

The Leader presented the statement that had been circulated and provided an update on the activities and decisions made by himself and the Cabinet to allow questions and comments.

The Leader gave a couple of updates on the published report. In respect of Paragraph 2, a comprehensive Peer Review was completed last week and the feedback had been very positive and a report would be brought to Full Council later in the year.

The Heroes Awards were held at the Mayor's Charity Ball at Keele last Friday. The Leader congratulated the winners of the three awards: Community Champion – Briony Bowler; Young Hero – Hannah Wollas and Lifetime Achievement – Jim Worgan.

Questions were raised by members as follows.

On paragraph 2 – One Council update

Councillor Parker asked the Portfolio Holder for Finance, Town Centres and Growth for an update on the programme of events for the ‘award winning’ markets for the rest of this year.

Councillor Sweeney advised that the events included Artisan Markets; Vegan Festival, Record Fair; Greyhound Gap; King’s Coronation Market; Young Traders Market, mini markets and antiques markets. Other events included a ten metre inflated bubble of CO₂ which was touring the County, Armed Forces Day celebrations and working with the BID for the Lymelight Festival. These events would be added to as they came along.

On paragraph 3 – the Coronation and 850 celebrations:

Councillor Gorton asked for the actual number of nominations received for the recent Heroes Awards, broken down into categories.

The Leader stated that he could not break them down into categories but there were 24 nominations overall.

On paragraph 4 – Housing Assistance Policy 2023:

Councillor John Williams referred to a recent Sentinel report stating that a resident who had been accepted for a grant and the work had not been carried out satisfactorily. A point had been made by this Council that the work would be brought ‘in-house’ and managed by the Council. Councillor Williams asked for clarification.

The Portfolio Holder for Community Safety and Wellbeing advised that it used to be a commissioned service in partnership with Staffordshire County Council. From 1 April, 2023 it was brought ‘in-house’ whereby the Council would work with the team. People had been taken on to do the casework and deal with contractors.

On paragraph 5 – Support with the cost of living and high energy prices:

Councillor Crisp asked the Portfolio Holder for Finance, Town Centres and Growth to advise what additional financial support was being given to residents in respect of rising bills and how much, in total, had the Government given to help residents across the Borough.

Councillor Sweeney advised that there were currently three schemes operating: Council Tax support which was £25 per household; Energy Bills Support Scheme Alternative Funding, £400 per household; Alternative Fuel Payment Alternative Fund, £200 per household. These funds had to be applied for from the Government who then process them and send the details to this Council for payment. At present, £48,400 had been given out for the Energy Bills support.

Since Covid, through Government funding, the Council had given out £51 million, £8 million of that being cost of living support.

On paragraph 6 – Procurement of new street sweepers:

Councillor Fox-Hewitt asked the Portfolio Holder for Environment and Recycling if the efficiency of the new machines would enable the restoration of street cleansing routes that had been cut in the last two years.

The Leader advised that there had been no cuts to routes but the service had been changed to respond to hot spots. There had been an increase in litter since Covid and there was a need to educate in schools, through litter picking for example.

Councillor Hutchison asked if there was any further information on the new road sweepers.

Councillor Johnson advised that Cabinet had approved five replacement street sweepers to be acquired by summer, 2023. Fourteen replacement refuse collection vehicles had also been approved.

On paragraph 7 – Financial and Performance Review Report – Third Quarter 2022-23:

Councillor Brockie asked, in respect of sickness absences, would staff affected by the changes through One Council have their contracts protected, employment rights upheld and a suitable level of risk assessment put in place to protect them and the public they serve.

The Leader stated that there were measures in place. The One Council programme was working with staff. The Administration was working with the HR team and the Unions.

Councillor John Williams asked what value had been achieved for the Ryecroft site and what internal and external audits had taken place on the value for money exercises on the value of the land.

The Leader stated that there would be a report to Cabinet when Aspire took on a large part of the site. Discussions were still ongoing with the County Council regarding the former Sainsburys site. Everything was in place to ensure that the Council got value for money.

Councillor Holland encouraged Members to look at the new format for reporting matters such as sickness absence which was reported at the last meeting of the Finance, Assets and Performance Scrutiny Committee. Members were further encouraged to suggest alternative priorities/key indicators to the Scrutiny Committee or to the Administration.

There were no comments or questions on paragraph 8 – the Forward Plan.

Resolved: That the statement of the Leader of the Council be received and noted.

[Watch the debate here](#)

6. **REPORTS OF THE CHAIRS OF THE SCRUTINY COMMITTEES**

The reports for the Health, Wellbeing and Environment Scrutiny Committee and Economy and Place Scrutiny Committee had been circulated with the agenda.

A verbal update was given for the Finance Assets and Performance Scrutiny Committee detailing the items discussed at previous meetings.

Resolved: That the reports be received.

[Watch the debate here](#)

7. **REPORTS OF THE CHAIRS OF THE REGULATORY COMMITTEES**

Reports for the Licensing and Public Protection Committee and the Planning Committee were attached to the agenda as supplementary items.

The Audit and Standards Committee had not met since the last Full Council meeting.

Resolved: That the reports be received.

[Watch the debate here](#)

8. **QUESTIONS TO THE MAYOR, CABINET MEMBERS AND COMMITTEE CHAIRS**

Three questions were received:

Question from Councillor Gorton to the Portfolio Holder for Environment and Recycling:

“I have been told that it is not the policy of the Borough Council to provide new bins for dog waste. Is this correct?”

Councillor Johnson advised that the Council replaced damaged, broken and missing dog waste bins from their current locations. There was no capacity to add new bins as it required additional resources to service them.

Councillor Gorton asked that, given that the number of dogs kept as household pets had increased there would be a greater demand for these bins. In light of this, did the Portfolio Holder think that it was time to review the current Policy.

Councillor Johnson advised that locations could be reviewed by Ward Councillors talking to Street Scene.

Question from Councillor Whieldon to the Leader of the Council:

“As the Leader of the Council is aware, concerns were expressed at the Walley's Quarry Liaison Committee in November 2022 about the Thistleberry Residents Association (TRA) and their continued membership of the Liaison Committee. At the subsequent meeting on 16 March 2023, Walleys Quarry Ltd said they had carried out due diligence, which they refused to share, and said they were satisfied with the TRA and its membership of the Liaison Committee.

Since being elected to the Council last May for the Thistleberry Ward, local Borough Councillors have tried to make contact with the TRA but without success. The TRA have stated they will not provide the names and contact details of the Executive, to us or anyone else, and the TRA will not provide information on meetings and or their contact with residents.

Does the Leader agree with me that there is no evidence the TRA actually represents the residents of Thistleberry and that the Thistleberry Residents Association is being run by somebody who does not live in Thistleberry?”

The Leader verified what Councillor Whieldon had said. The TRA was being run by someone now living in Betley. For the last six to eight years it had not been a functioning Residents Association as far as the Leader was aware and that needed to be addressed.

Councillor Joan Whieldon asked, despite the due diligence conducted by RED Industries, the Council could not be confident that an Executive for the TRA existed or if any members lived in the Thistleberry Ward. What action was the Leader taking to satisfy himself that the due diligence was carried out by RED in a satisfactory manner and complied with the Section 106 agreement. In addition, could the Leader assure that if RED were not compliant with the Section 106 agreement, that action was or would be taken by the appropriate authorities.

The Leader stated that he had challenged them at the committee and had also spoken to the County Council regarding the requirement for community representation; and that the operator carry that out respectively and fully. It was believed that this had been actioned and that Walleys Quarry Limited had been contacted.

It was expected that evidence of the due diligence would be asked for. It could not be found by anyone who had tried to locate it.

Question from Councillor Brockie to the Leader of the Council:

“Many residents feel that the Sky building has suffered enough and wants putting out of its misery. The people of Newcastle are watching its daily deterioration with dismay, and many feel that it should be brought back into Council ownership. What options, including compulsory purchase, have been considered in order to make the best use of what’s left of it?”

The Leader stated that, although it was a scar on the town, it was a private development that the Council could not interfere with, other than checking that the site was safe. It was believed that there was a battle to take control of the site and once that took place, officers had been assured that the development would be completed. During the past week there had been activity on the site and it was hoped that it would be completed as per its planning permission.

Compulsory purchase would be problematic for the Council as it was not seen as a dead site and would also divert money away from the regeneration projects and risk the delivery of those projects. The new owner of the site would be held to account and hope that they would continue with the development.

Councillor Brockie sought reassurance that the prospect of diverting money away from the regeneration projects did not put the Administration off looking at the feasibility of having some input into what happens to the building. Could assurance be given that any checks on stakeholders could be looked into as thoroughly as possible.

The Leader confirmed that the Council would do what it could.

[Watch the debate here](#)

9. RECEIPT OF PETITIONS

No petitions were received.

10. **URGENT BUSINESS**

There was no urgent business.

11. **DISCLOSURE OF EXEMPT INFORMATION**

There were no confidential items for consideration.

**Mayor - Councillor Gillian Burnett
Chair**

Meeting concluded at 8.11 pm

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO**

Council
17 May 2023

Report Title: Appointment to Committees
Submitted by: Chief Executive
Portfolios: One Council, People and Partnerships
Ward(s) affected: All

Purpose of the Report

To appoint Members to committees, elect chairs and vice-chairs and note appointments to Political Group Leader and Deputy Leadership positions. Also, to make any required changes to the Council's representatives on External Organisations, previously agreed at last year's Annual Council Meeting.

Recommendation

That:

- (a) Council makes the committee appointments set out in the Appendix to this report and notes the appointed Group Leader/Deputy Leadership positions.**
- (b) Any required changes to the Council's representatives on External Organisations be noted and the relevant organisation(s) be advised.**

Reasons

In accordance with the requirements of the Constitution, and to enable council business to be conducted through committees (Sections 101 & 102 of the Local Government Act 1972; Section 6 of the Licensing Act 2003) and to comply with the requirements in respect of Scrutiny (Part 1A of the Local Government Act 2000).

1. **Background**

Committee Appointments

- 1.1 The Local Government and Housing Act 1989 ("the 1989 Act") imposes political proportionality requirements in respect of the appointment of committees (other than the Executive). Specific provision is made in Section 15 of the Act as to how proportionality requirements should be prioritised as between the number of seats available on each committee and the number of available committee seats overall.
- 1.2 To meet these requirements, minor adjustments often need to be made where, for instance, a strict calculation results in an entitlement to less than one whole seat on any given committee.
- 1.3 It now falls to Council to appoint members from the relevant political groups to the seats allocated to those groups. Council will then need to elect a chair and vice-chair for each committee. Nominations made by the groups will be set out in an appendix to be tabled at the meeting.

1.4 Government advice on Scrutiny Committees suggests that local authorities might consider it appropriate to have all or some of these committees chaired by members outside the majority group.

1.5 The constitution states that there shall be 2 non-voting co-opted members on the Health, Wellbeing and Environment Scrutiny Committee as set out below:

“In addition, there shall also be 2 non-voting co-opted members, representing the young people of the Borough drawn from the Student’s Union at Keele University and the Student Representative Body at Newcastle College. Both establishments are to be invited to nominate a co-opted member at each Annual Council.”

It is recommended that the Head of Legal and Governance/Monitoring Officer be granted delegated authority to make these arrangements.

Group Leadership/Deputy Leadership

1.6 For completeness, Political Group Leader and Deputy Leaderships are also reported to Annual Council. These will also be set out the appendix to this report tabled at the meeting.

2. **Issues**

2.1 Set out above.

3. **Proposal**

3.1 That Council makes the committee appointments set out in the Appendix to this report and notes the appointed Group Leader/Deputy Leadership positions.

4. **Reasons for Proposed Solution**

4.1 To comply with the legislative requirements and Council’s Constitution.

5. **Options Considered**

5.1 Not applicable.

6. **Legal and Statutory Implications**

6.1 Dealt with in the body of the report

7. **Equality Impact Assessment**

7.1 Not applicable.

8. **Financial and Resource Implications**

8.1 There are no significant direct financial or resource implications arising from the proposals. There is no change to the number of chairmanships or vice-chairmanships so no impact on members’ allowances.

9. **Major Risks**

- 9.1 It is essential that the council's decision making structures and processes are robust and established in line with the relevant legislation and principles of good governance, to minimise the risk of legal challenge. The proposed approach seeks to ensure those aims are met.
- 9.2 The appointment of scrutiny committees enables the Council to achieve enhanced accountability and transparency of decision making process. Scrutiny is a key element of the Council's executive arrangements and is the main way by which executive decision-makers are held to public account for the discharge of the functions for which they are responsible.
- 9.3 The scrutiny process is a key mechanism for enabling councillors to represent the views of their constituents and other organisations to the cabinet and to the Council and, by examining the operation and impact of the Council's policies, is a useful means of improving the development and delivery of services. Lack of an effective scrutiny function could lead to a lack of democratic accountability for the Council.

10. **UN Sustainable Development Goals (UNSDG)**

10.1 Not applicable.

11. **Key Decision Information**

11.1 This is not a Key Decision.

12. **Earlier Cabinet/Committee Resolutions**

12.1 Not Applicable.

13. **List of Appendices**

13.1 Nominations. (to follow)

14. **Background Papers**

14.1 Not Applicable.

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**CORPORATE LEADERSHIP TEAM'S
REPORT TO**

Council
17 May 2023

Report Title: Updated Finance and Contract Procedure Rules

Submitted by: Monitoring Officer

Portfolios: One Council, People & Partnerships

Ward(s) affected: N/A

Purpose of the Report

To ask Council to adopt a new set of Finance and Contact Procedure Rules

Recommendation

That Council resolves to:-

- 1) adopt the new Finance and Contract Procedure Rules as set out in the appendix; and,**
- 2) delegate authority to the Monitoring Officer, in conjunction with the Portfolio Holder One Council, People & Partnerships, to make such minor modifications as may be required to finalise the drafting and integrate the same into the Constitution.**

Reasons

The Finance and Contract Procedure Rules (FCPRs) haven't been substantially revised since September 2020. They were not revised alongside the rest of the Constitution when the Constitution was substantially updated at Annual Council in 2022, resulting in the adoption of a bespoke, modern constitution. The adoption of the proposed FCPRs would bring them into line with the rest of the new Constitution, bringing efficiency improvements through clarity and brevity and by updating and streamlining outdated or unnecessarily complex processes. In doing so, the new FCPRs also bring improved governance and provide a clearer, centralised framework in areas such as joint and collaborative working and grant funding.

1. Background

- 1.1 Members will recall that a new Constitution was adopted by unanimous vote of Council at its Annual meeting in 2022. The new Constitution took a completely fresh, bespoke approach to its layout, format and content, significantly updating and modernising it and making it much more user-friendly and accessible.

- 1.2 Constitutions are “living documents” and must change from time to time to reflect how the Council does and would like to work, to make its operations more efficient and to ensure it achieves the correct balance between efficiency and sound governance. It is reviewed on at least an annual basis, with proposed changes being brought to Annual Council for Members to consider.
- 1.3 Members will be aware that whilst the rest of the Constitution was substantially revised and updated during 2022, with a new Constitution being adopted by unanimous vote of Council at its 2022 Annual meeting, the FCPRs were not reviewed as part of that process.
- 1.4 This approach was taken predominantly because a comprehensive review of FCPRs at that time would have delayed the adoption of the rest of the constitution, given the length and complexity of that version of the FCPRs. In addition, there was also significant legislative change to the procurement regime which anticipated, so there was some sense in pausing to evaluate the likely impacts of that development on the FCPRs.
- 1.5 Whilst those legislative changes are still expected, it is likely to be 12 months or more before they take shape and come into force, so it is considered prudent to update our FCPRs in the meantime. There are some significant operational efficiency benefits to be gained in doing so, along with some governance improvements and the additional advantages of the FCPRs moving to a format and drafting style that matches the rest of the new Constitution.

2. **Issues**

- 2.1 The FCPRs set out how the council manages its operational financial processes, and the rules governing how the council procures goods, services and works and manages its contracting arrangements.
- 2.2 The current FCPRs are found in appendices F5 and F6 of the Constitution and run to some 178 pages. They are a direct “lift and shift” (with some formatting changes) of the FCPRs that were in the Council’s old Constitution, last updated in September 2020.

Streamlining the FCPR

- 2.3 The revision of the FCPR has removed rules which are better suited to an operational practice manual as opposed to being in the main body of the rules themselves. These issues are appropriately contained in FCPRs as “headline” considerations only, establishing the principles and the importance of such controls, but with the detail sitting at an operational manual level. These are issues which should not require Council approval to change/update.
- 2.4 The rules which move to operational manuals are:

- Processes to be followed when stocks are delivered (inspection at the time of delivery for quantity/quality etc.; directions as to signing stock sheets, certifying accuracy, collating records, stock taking etc.)
- Provisions relating to ordering and paying for supplies and services, referencing outdated systems and forms.
- Provisions relating to the commercial strategy
- Provisions relating to project governance, partnerships, internal control, risk, audit, insurance, staffing costs & expenses, member allowances, and internal financial reporting.

Correcting Anomalies

2.5 The review of the FCPS identified differences between what the current FCPRs say, and what is actual (and correct) current practice. The new FCPRs have been drafted to reflect actual (and correct) current practice:

- Removing the need for the Section 151 Officer to be consulted/ involved in negotiations in *all* cases where an agreement “or other arrangement” in excess of £50k is “contemplated with external third parties...which may have financial implications for the council”. This is unhelpfully vague and there are other adequate controls within the decision making process which makes this unnecessary.
- Standardising the financial limits which trigger different requirements in the contracting process (credit checks, risk assessments, anti-bribery checks).
- The FCPRs currently have a £10,000 threshold at which contracts must be placed on a regional portal or the Council’s website. That threshold should (in law) be £25,000.
- Aligning to £50,000 the form (terms and conditions) of contracts which must be approved by Legal Services and the size of contract which needs to be put through the formal Legal Services signing/sealing processes to remove an existing misalignment.
- Aligning the requirement to execute under seal with current law. The new FCPRs provide clarity and guidance on this approach and will expedite contract completion arrangements without sacrificing proper governance controls.
- Clarification of arrangements for “performance bonds” when letting contracts such that bonds are not required for contracts up to £250,000, and the advice of the S151 Officer should be sought on a case-by-case basis thereafter.

Improved Governance

2.6 The revised FCPRs include additions designed specifically to improve governance controls:

- Exceptions to the procurement rules can currently be approved for appropriate reasons (market failure, single supplier, urgency). The revised rules increase controls by allowing approval by the S151 Officer and Monitoring Officer only, rather than any Chief Officer, and use of these “waiver” processes to be reported to the Audit & Standards committee on a regular basis as part of the Council’s performance monitoring practices.
- The revised rules contain sections that provide a clear framework on joint and collaborative working, particularly where the council acts as the “accountable body” in a wider partnership. Whilst we have adequate governance frameworks around the various programmes associated with Levelling Up, it is prudent for the FCPRs to contain an overarching framework in these areas.

Summary

2.7 This report provides an overview of the substantive alterations proposed in the new rules. It is beyond the scope of this report to summarise *all* of the changes made as the new FCPRs are based on a fresh model, rather than being the result of iterative improvements to the existing version. Members can be assured, however, that there have been no changes to the hierarchy of financial limits in terms of when approvals must move from Officer, to Cabinet to Council.

2.8 Members should also keep in mind that as a part of the Constitution, the FCPRs are also a “living document” and should properly be kept under constant review and updated as needs be. A substantive review of the provisions on procurement and contracting will be required when the legislative changes referred to above come into effect, which is anticipated to be mid to late 2024.

3. Proposal

3.1 That Council resolves to:-

- 1) adopt the new Finance and Contract Procedure Rules as set out in the appendix; and,
- 2) delegate authority to the Monitoring Officer, in conjunction with the Portfolio Holder One Council, People & Partnerships, to make such minor modifications as may be required to finalise the drafting and integrate the same into the Constitution.

4. Reasons for Proposed Solution

4.1 The Finance and Contract Procedure Rules (FCPRs) haven’t been substantially revised since September 2020. They were not revised alongside the rest of the Constitution when the Constitution was substantially updated at Annual Council in 2022, resulting in the adoption of a bespoke, modern constitution. The adoption of the proposed FCPRs would bring them into line with the rest of the new Constitution, bringing efficiency improvements through clarity and brevity and by updating and streamlining outdated or unnecessarily complex processes. In doing so, the new

FCPRs also bring improved governance and provide a clearer, centralised framework in areas such as joint and collaborative working and grant funding.

5. **Options Considered**

5.1 An option would be to simply carry on with the existing FCPRs, until the changes to the procurement regime come into effect. Another option would be to explore piecemeal amendments to the existing rules to deal only with some of the more pressing issues, until that time.

5.2 However, there are considerable benefits in terms of operational efficiency and improved governance in the proposed update and revised format that wouldn't be realised if that alternative approach was taken. A piecemeal approach to amendments is likely to be resource intensive and unachievable on any useful timescale.

6. **Legal and Statutory Implications**

6.1 There are no legal implications arising in respect of the first three proposed changes. The review has been very carefully undertaken by the Monitoring Officer, Section 151 Officer, Deputy Section 151 Officer and the Councils' lead Procurement Officer. Great care has been taken to ensure that the proposed new FCPRs are up to date and in accordance with all relevant statutory requirements.

6.2 Through that process, the Officer team has identified (and rectified) some areas where the rules were out of date and have clarified and simplified processes which greatly increases the likelihood of the rules being better understood and followed. This greatly reduces the likelihood of the Council falling into error in the way in which it conducts its financial and procurement/contracting functions.

7. **Equality Impact Assessment**

7.1 There are no equality implications arising from the proposals.

8. **Financial and Resource Implications**

8.1 There are no direct financial or resource implications, but improved clarity and simplicity in the processes governed by the rules will deliver operational efficiencies in day-to-day practice. The governance improvements proposed will ensure better stewardship of council resources and the updates and clarity provided around the procurement and contracting processes in particular will reduce the likelihood of an error leading to potentially significant costs in resolving a governance failure.

9. **Major Risks**

9.1 The greatest risk lies in not updating the rules.

10. **UN Sustainable Development Goals (UNSDG)**

10.1 Contributing to the smoother and more efficient operation of the Council contributes towards the following goals:-



11. **Key Decision Information**

11.1 N/A

12. **Earlier Cabinet/Committee Resolutions**

12.1 Adoption of the new Constitution, Annual Council May 2022.

13. **List of Appendices**

13.1 Proposed new FCPRs

14. **Background Papers**

14.1 N/A



NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**CORPORATE LEADERSHIP TEAM'S
REPORT TO**

Council
17 May 2023

Report Title: Constitution Update

Submitted by: Monitoring Officer

Portfolios: One Council, People & Partnerships

Ward(s) affected: N/A

Purpose of the Report

Council is asked to approve the proposed changes to update the Constitution

Recommendation

That Council approve:-

- 1. the changes that relate to the Planning Committee**
 - 1.1 allowing 5 minutes for each public speaker to address the Planning Committee, and**
 - 1.2 automatically referring to committee any application involving 10 or more dwellings or where the number of dwellings is not known.**
- 2. the changes required to reflect the recently amended Officer structure**
- 3. a change in name of Scrutiny Working Groups to Scrutiny Task and Finish Groups**
- 4. authorise the Monitoring Officer, in conjunction with the Portfolio Holder One Council, People & Partnerships to amend the Constitution accordingly**

Reasons

The Planning Committee and Scrutiny changes revert to the position prior to the new Constitution's adoption at Annual Council in 2022, which lead Members consider to be preferable. The Officer structure changes are necessary to keep the Constitution up to date.

1. Background

- 1.1** Members will recall that a new Constitution was adopted by unanimous vote of Council at its Annual meeting in 2022. The new Constitution took a completely fresh, bespoke approach to its layout, format and content, significantly updating and modernising it and making it much more user-friendly and accessible.

- 1.2 Constitutions are “living documents” and must change from time to time to reflect how the Council does and would like to work, to make its operations more efficient and to ensure it achieves the correct balance between efficiency and sound governance. It is reviewed on at least an annual basis, with proposed changes being brought to Annual Council for Members to consider.
- 1.3 During the course of the last year, the need for changes in three areas has been identified. The first change relates to operational development control matters. The second change is to correct an inadvertent name change in relation to the work of Scrutiny Committees. The third change is to update the Constitution generally to reflect the change in the Officer management structure that has occurred.

2. **Issues**

Planning Changes

- 2.1 These changes relate to the length of time public speakers may address the planning committee, and the threshold for housing development that would result in an automatic referral of an application to the planning committee to decide.
- 2.2 The new constitution provides for a period of 3 minutes for each public speaker wishing to address the planning committee on an application, under the old Constitution 5 minutes was allowed. The Chair can exercise discretion to allow speakers longer than 3 minutes, and has routinely done so up to (and where required) beyond the previously permitted 5 minutes. Members have expressed a preference to formally revert back to the 5 minute provision and record that in the new Constitution.
- 2.3 In terms of the automatic referral of housing applications to planning committees, there typically turns on the number of proposed houses, with different councils adopting different approaches. Currently, the Constitution operates to automatically refer proposals for the development of 200 or more dwellings to planning committee. The Service Director Planning can elect to refer applications that do not meet that criteria to the planning committee, and has been doing so as a matter of routine given the implications of and interest in such proposals. Members have expressed a preference to revert back to the position in the old Constitution where an automatic referral to planning committee is triggered by applications involving 10 or more dwellings or where the number of dwellings is not known.

Officer Management Structure

- 2.4 Members will recall that one of the Council’s Executive Directors has retired. The Chief Executive, as the Council’s statutory Head of Paid Service, took that opportunity to amend the Council’s management team, re-designating existing officers such that there is now a Chief Executive, Deputy Chief Executive and a number of Service Directors, with the titles “Executive Director” and “Head of Service”, no longer being in use.

2.5 There are various passages in the Constitution that now need to be updated to reflect these changes, none of which alter the substance of the Constitution in any way.

Scrutiny Committees

2.6 Members will be aware that when Scrutiny Committees wish to take a “deep dive” and scrutinise a particular matter in some detail, they can set up a sub-committee to do so. Traditionally, those sub-committees have been referred to as “task and finish groups”, to reflect the fact that they are convened for a particular purpose, and once that purpose is met, the work of the group is finished and it is dissolved.

2.7 In the new Constitution, such groups are referred to simply as “working groups” and there is a preference to formally revert back to the moniker “task and finish group”.

2.8 In addition, the Monitoring Officer and Section 151 Officer have now completed a comprehensive review of the Council’s Contract and Financial Procedure Rules (FCPRs). These are an appendix to the constitution (F5 and F6) which were not comprehensively reviewed as part of the process of updating the Constitution in 2022. This work has now been completed and it is considered that the new FCPRs represent a significant and important update, to better achieve the balance between efficiency and sound governance. This is addressed as a separate report elsewhere on this agenda.

3. **Proposal**

That Council approve:-

- 1. the changes that relate to the Planning Committee;**
 - 1.1 allowing 5 minutes for each public speaker to address the Planning Committee, and**
 - 1.2 automatically referring to committee any application involving 10 or more dwellings or where the number of dwellings is not known.**
- 2. the changes required to reflect the recently amended Officer structure**
- 3. a change in name of Scrutiny Working Groups to Scrutiny Task and Finish Groups**
- 4. authorise the Monitoring Officer, in conjunction with the Portfolio Holder One Council, People & Partnerships to amend the Constitution accordingly**

4. **Reasons for Proposed Solution**

4.1 The Planning Committee and Scrutiny changes revert to the position prior to the new Constitution’s adoption at Annual Council in 2022, which lead Members consider to

be preferable. The Officer structure changes are necessary to keep the Constitution up to date.

5. **Options Considered**

5.1 Council could select any or all of the options presented, or decide to do nothing. The proposed changes reflect Member preference and operational practice.

6. **Legal and Statutory Implications**

6.1 There are no legal implications arising.

7. **Equality Impact Assessment**

7.1 There are no equality implications arising from the proposals.

8. **Financial and Resource Implications**

8.1 There are no direct financial or resource implications arising.

9. **Major Risks**

9.1 None identified.

10. **UN Sustainable Development Goals (UNSDG)**

10.1 Contributing to the smoother and more efficient operation of the Council contributes towards the following goals:-



11. **Key Decision Information**

11.1 N/A

12. **Earlier Cabinet/Committee Resolutions**

12.1 Adoption of the new Constitution, Annual Council May 2022.

13. **List of Appendices**

13.1 Proposed new FCPRs

14. **Background Papers**

14.1 N/A

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