

Audit Committee – 16 April 2018

Review of the Constitution – Part 4 – Section 7– Financial Rules

1. Summary of report:

- 1.1 This report sets out some minor changes to the Constitution rules of procedure.

2. Background papers:

- 2.1 Council's Constitution

3. Recommendation(s)

That the amendments to finance procedure rules contained within this report be approved for inclusion in the updated Constitution at its Annual meeting in May 2018;

4. Background

- 4.1 Part 4 of the Constitution relates to rules of procedure and is made up of eight sections, the seventh and eight sections being the financial rules and contract rules which are the responsibility of the Audit Committee.
- 4.2 The proposed amendments relate to parts 2.3 (Virements and budget transfers), 2.4 (treatment of year-end balances), 3.6 (Maintenance of reserves), 8.2 (Income), 8.6 (trading accounts) and 9.4 (work for other organisations). These are shown as tracked changes within the attached appendix.

5. Resource and Legal Considerations:

- 5.1 None directly arising from this report.

6. Performance and risk management issues:

- 6.1 Performance and risk management are a feature of all Council functions. It is important that Council policies and procedures are reviewed and updated on a regular basis. If the Council fails to do this there is an increased risk that the Council will be subject to legal challenge or litigation. In terms of performance it is important that elected members and officers have a clear framework of standards to follow in delivering services to the community. These frameworks provide accountability and transparency in respect of the way in which the Council deliver services. The Constitution is a key part of this framework of internal control.


7.0 Equality Implications:

- 7.1 In maintaining up-to-date policies and procedures the Council will ensure that services are delivered fairly in an open and transparent manner.

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2.3 Virements and budget transfers

1. A scheme of virement shall be maintained to enable the Cabinet, Executive Directors and their staff to manage budgets with the degree of flexibility within the overall budget and policy framework determined by the Council, and therefore to optimise the use of resources. Virement is the process of moving a budget from one financial code to another and reflects changes in council policy or operational decisions within officer delegations. A virement can be made on a permanent (transfer of staff) or temporary basis (one-off allocation of contingency).
2. **Virements**
 - (a) Steps taken by the Executive, (a committee of the Executive, an individual member of the Executive or officers discharging executive functions) to implement Council policy shall not exceed those budgets allocated to each budget heading, subject to paragraphs (c) ~~to (i)~~ below.
 - (b) Year end technical accounting transfers, realignment of central support services, allocation of new expenditure where grant or other income sources have come on stream in year, miscoding, transfers due to new allocation of grant or other funding sources, and internal recharges do not constitute a virement nor do those arising from changes in management responsibilities.
 - (c) Such bodies or individuals shall be entitled to vire across budget headings, sums not exceeding a specified limit for the financial year, as follows:
 - (i) Capital

A chief officer may vire capital up to £25,000 across budget headings (or, up to **£250,000** with the approval of the Chief Finance Officer **or Head of Finance**, in consultation with the Executive Member for Finance **and Personnel**).
 - (ii) Revenue

A chief officer may vire revenue up to £50,000 across budget headings (or, up to **£250,000** with the approval of the Chief Finance Officer **or Head of Finance**, in consultation with the Executive Member for Finance **and Personnel**).
 - (d) The Executive may:
 - (i) Increase capital or revenue expenditure in-year by use of general reserves in accordance with the Councils approved Medium Term Financial Strategy, provided that the Chief Finance Officer **or Head of Finance** has certified in writing that such use of reserves would not cause the councils overall position to fall below the specified level.
 - (ii) Increase the capital budget provided that additional expenditure can be funded through:

- Existing capital resources (i.e. due to capital carry forward or underspends in year) with the approval of the Chief Finance Officer or Head of Finance.
- (e) The Chief Executive may exercise any of the powers of the Executive, in consultation with the Leader, the Executive Member for Finance ~~and Personnel~~ and the Chief Finance Officer and Monitoring Officer where the legal or financial position of the Council or the interests of the residents of Walsall would be prejudiced if the matter were not determined before the next scheduled Executive meeting. The Chief Executive will report any such decision to the next meeting of the Executive, and then to Council.
- (f) No virement relating to a specific financial year should be made after 31 March in that year (excluding year end technical accounting entries and realignments of internal recharges which are processed centrally).
- (g) Where an approved budget is a lump-sum revenue or capital budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
- (i) The amount is used in accordance with the purposes for which it has been established, or
 - (ii) The Cabinet has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Cabinet.
- (h) Where it is necessary to record changes in the council's accounting structure or to correct miscoding of entries in the Council's ledger accounting system, the Chief Finance Officer or nominee shall agree these adjustments in writing and effect them by journal entry or otherwise.

2.4 Treatment of year-end balances

1. The carry forward protocol in the MTFs sets out how to deal with amounts remaining unspent in Heads' of Service/Service Managers budgets at the end of each financial year. Appropriate accounting procedures shall be maintained to ensure that carried forward totals are correct.
2. Schools' balances shall be available for carry-forward to support the expenditure of the school concerned in accordance with the Council's approved scheme of delegation. Where an unplanned deficit occurs, the governing body shall prepare a detailed financial recovery plan for consideration by the cabinet member concerned, following evaluation by the chief education officer and the Council's Chief Finance Officer or Head of Finance. Schools will normally be expected to agree a plan to recover the deficit within twelve months unless there are exceptional circumstances.
3. In exceptional circumstances, a school may seek to incur expenditure to be financed by anticipating the following year's budget share. Such arrangements require the prior approval of the Executive Director responsible for education in

consultation with the Chief Finance Officer **or Head of Finance**. Proposals shall be accompanied by a detailed plan setting out how the arrangement is to be accommodated as the first call on the reduced budget share.

3.6 Maintenance of reserves

The CFO **or Head of Finance** shall ensure that:

- (a) Reserves are maintained in accordance with the “Code of Practice on Local Authority Accounting in the United Kingdom, and the Council's agreed accounting policies.
- (b) Reserves are established and used only following authorisation of the Chief Finance Officer and in accordance with the MTFS

8.3 Ordering and paying for work, goods and services

1. Public money should be spent with demonstrable probity and in accordance with the Council's approved budget and policies. The Council has a statutory duty to achieve best value in part through economy and efficiency. The Council's rules and procedures should help to ensure that services obtain value for money from purchasing arrangements.
2. Every officer and member of the authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with appropriate codes of conduct.
3. Official orders must be in a form approved by the Chief Finance Officer **or Head of Finance**. They must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments - such as rent or rates - petty cash purchases or other exceptions specified by the Chief Finance Officer **or Head of Finance**. They must conform to requirements for central purchasing and the standardisation of supplies and materials.
4. Standard terms and conditions on official orders shall not be varied without the prior approval of the Chief Finance Officer **or Head of Finance**.
5. Apart from petty cash, schools' own bank accounts and other payments from advance accounts, the normal method of payment shall be by cheque bank automatic clearance transfer, or other approved instrument. The Chief Finance Officer, **or Head of Finance**, shall make payment from the Council's bank or National Giro account.
6. The use of direct debit or other methods of payment shall require the prior written agreement of the Chief Finance Officer **or Head of Finance**
7. Official orders shall not be raised for any personal or private purchases, nor must personal or private use be made of the Council's contracts.

8. All officers shall ensure that goods, works and services required by the Council are:
- (a) Requisitioned and ordered only in accordance with passwords and access levels assigned to individual officers as agreed by the Chief Finance Officer **or Head of Finance**,
 - (b) Authorised by an officer who holds an appropriate access level to the Council's ORACLE, I-PROCUREMENT or other software following confirmation that:
 - (i) The incurring of the expenditure has been authorised by an appropriate officer who holds the correct level of authority to incur the expenditure,
 - (ii) Uncommitted revenue budget is available from which to make payment for the items ordered,
 - (iii) The payment is for a utility or other commodity for which a revenue budget exists,
 - (iv) The items obtained will be provided to the area of the Council whose officer has created the order or to another area of the Council to which it has been agreed that a charge will be made,
 - (v) An amount has been set aside in an approved capital programme, or
 - (vi) The Council has a legal liability to make the payment.
 - (c) Requisitioned, ordered, receipted and paid for only as set out in the Council's rules and procedures for use of the ORACLE, I-PROCUREMENT or other software, except where the Chief Finance Officer **or Head of Finance** has previously approved otherwise in writing,
 - (d) Correctly recorded and coded in accordance with the procedures for use of the Council's ORACLE, I-PROCUREMENT and other systems,
 - (e) Ordered in accordance with the Council's rules and procedures for tenders and contracts, and
 - (f) Checked upon receipt wherever possible to ensure they are in accordance with the order. Goods should not be received by the person who placed the order
9. Payments for goods, works and services should normally be made only following receipt of the items ordered by the Council. Officers should ensure that payments are made only for items:

- (a) Ordered by the Council,
 - (b) Provided to it in accordance with the terms of a contract,
 - (c) Are the subject of a grant or other funding agreement, or
 - (d) Form a legal liability of the Council,
10. They should further ensure that payments are made only:
- (a) For the correct price, quantity and quality standards specified in the Council's official order, and,
 - (b) To the correct firm or person, for the correct amount and are properly recorded, regardless of the payment method.
11. All expenditure should be:
- (a) Evidenced with appropriate documents retained and stored for the defined period, in accordance with the Council's document retention schedule,
 - (b) Accurately recorded against the appropriate budget including the correct treatment of value added tax,
 - (c) Undertaken in the most efficient manner bearing in mind the requirements of e-business, e-commerce and electronic purchasing.

8.6 **Trading accounts and Walsall Adult and Community College**

For Trading accounts authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost.

- ~~2. Walsall Adult Community College shall submit financial and operational plans to the executive annually for approval.~~
- ~~3. Walsall Adult Community College must submit regular progress reports to the Corporate management on progress against those plans.~~

9.4 **Work for other organisations**

- 1. Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work are managed properly and that such work is within the scope of the law.
- 2. All Council officers shall act to ensure that they:
 - (a) Cost proposals in accordance with guidance provided by the Chief Finance Officer **or Head of Finance.**

- (b) Consult the Monitoring Officer or his nominee regarding the appropriate form of contract, and
- (c) Follow the Council's procedures regarding the financial aspects of making contracts with other organisations and maintenance of the contract register.