

Meeting of the Full Council
Meeting to be held on Thursday, 17 October 2024

Report submitted by: Director of Law and Governance

Part A

Electoral Division affected:
N/A;

Corporate Priorities:
Delivering better services;

Updates to the County Council's Constitution
(Appendices 'A' - 'L' refer)

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Brief Summary

Following Full Council's approval of the Constitution for the municipal year, the Political Governance Working Group has considered and reviewed the council's Procurement Rules and Committee Terms of Reference.

This report seeks Full Council's approval for the recommendation of the Political Governance Working Group to update the Procurement Rules and the Committee Terms of Reference, plus any consequential changes to other sections of the Constitution, particularly the Scheme of Delegation to Officers and the Full Council Terms of Reference.

Full Council is also asked to note the minor and/or corrective changes that have been approved by the Director of Law and Governance since the last report to Full Council in May 2024.

Recommendation

Full Council is asked to:

- (i) Consider the recommendation of the Political Governance Working Group at its meeting on 26 September 2024 and approve the updated Procurement Rules and Committee Terms of Reference, as set out at Appendices 'A' - 'I'.

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| (ii) | Approve the Local Pensions Partnership Ltd Governance Panel Terms of Reference, as set out at Appendix 'J'. |
| (iii) | Approve the updated Scheme of Delegation to Officers, set out at Appendix 'K'. |
| (iv) | Approve the update to the Terms of Reference for Full Council, as set out in the report, and |
| (v) | Note the changes to the Constitution that have been made since the Annual Meeting on 23 May 2024, as set out at Appendix 'L'. |

Detail

The council's Constitution was approved by Full Council at its Annual Meeting on 23 May 2024. It is available to view on the council's website via the following link:

www.lancashire.gov.uk/council/constitution

Procurement Rules

The Procurement Rules form part of the Constitution (Section 10 – Standing Orders).

At its meeting on 26 September 2024, the Political Governance Working Group considered an updated set of Procurement Rules following a review undertaken by officers.

A review was required as a result of planned changes to procurement legislation, to ensure the Rules continued to be fit for purpose and compliant with new legislation. The review was carried out in line with the following principles: legal compliance, transparency and fairness, value for money, accountability and integrity, efficiency, and risk management.

It is important the council has a robust set of Procurement Rules, to ensure:

- Effective, efficient and transparent decision making at the right level;
- The council meets legal requirements relating to procurement decisions;
- The council is getting the best value for public money;
- Integrity is maintained in the council's procurement processes; and
- Risks are identified and appropriately mitigated.

In the main, the proposed changes to the Procurement Rules have focussed on compliance with new procurement legislation, in particular:

- Transitional arrangements – the council will be required to comply simultaneously with the outgoing Public Contracts Regulations 2015, the



continuing Provider Selection Regime, and the incoming Procurement Act 2023.

- Transparency requirements – the Procurement Act 2023 will prescribe new notices and other transparency requirements that the council will be required to comply with.
- Procurement procedures – the Procurement Act 2023 will prescribe significant changes to the use of framework agreements and competitive procedures that the council will be required to follow.

The proposed changes to the Procurement Rules also:

- Better align with the Scheme of Delegation to Officers and will improve the efficiency of decision-making at all levels by simplifying the procurement thresholds set out at Rule 8.1. The proposed thresholds have been set to comply with the incoming legislation.
- Amend the process by which Cabinet will consider and approve procurement related Key Decisions. Currently, Cabinet receives a monthly report of proposed procurement exercises to consider and approve. The proposal endorsed by the Political Governance Working Group was for an annual forward plan of procurement Key Decisions instead, which will align with the council's budget setting process. This would provide for more robust planning for upcoming procurement activity and reduce the quantity of individual reports submitted to Cabinet.
- Amend the process and required approvals for considering waivers of the Procurement Rules in exceptional circumstances. Currently, a waiver that exceeds £75,000 for goods or services and £100,000 for works requires Cabinet approval. The proposal endorsed by the Political Governance Working Group was that only waivers above the Key Decision threshold would require a decision from Cabinet; otherwise, a new set of thresholds set out at Rule 12.5 would allow waiver decisions to be taken under the Scheme of Delegation to Officers. This would reduce the quantity of individual reports submitted to Cabinet for decision. Instead, the Audit, Risk and Governance Committee would receive a six-monthly report on all approved waivers.

The proposed, updated set of Procurement Rules is set out at **Appendix 'A'**. Full Council is therefore asked to consider the recommendation of the Political Governance Working Group and approve the updated Procurement Rules.

Committee Terms of Reference

The Committee Terms of Reference form part of the Constitution (Section 4 – Committees).

At its meeting on 26 September 2024, the Political Governance Working Group considered the outcome of a review of the committees' terms of reference.



The review proposed the following:

- Audit, Risk and Governance Committee – some minor amendments to remove repetition and some slight reordering to add clarity.
- Conduct Committee – the removal of one provision relating to the dismissal of the Head of Paid Service, due to duplication with the Employment Committee's Terms of Reference.
- Development Control Committee – no change required.
- Employment Committee – some amendments to the language and process relating to the appointment and dismissal of senior officers to reflect current practice and align with national guidance, and the removal of some provisions relating to functions which instead sit with Cabinet, Full Council or, in the case of minor policy changes, fall under the Scheme of Delegation to Officers.
- Health and Wellbeing Board – no change required.
- Pension Fund Committee – some minor amendments to remove repetition and three more significant changes:
 1. Include reference to the newly established Governance Panel which will support the council-appointed Directors of Local Pensions Partnership Limited with shareholder matters.
 2. Include reference to all the committee's responsibilities as set out in the Local Pensions Partnership Limited Shareholder Agreement.
 3. Remove duplication with the Full Council Terms of Reference, Employment Committee Terms of Reference, and Scheme of Delegation to Officers.
- Pension Fund Investment Panel – some minor amendments to remove repetition and an addition to make it clear the Panel must comply with the strategy agreed by the Pension Fund Committee.
- Local Pension Board – several sections relating to the administration of the Board have been removed and included instead in a new support guidance document, which will form part of the "Additional Protocols" section of the Constitution. This will align the structure of the Board's Terms of Reference with that of the other committees.
- Political Governance Working Group – some minor amendments to align the structure with that of the other committees.
- Regulatory Committee – no change required.
- Urgency Committee – no change required.

The proposed, updated Committee Terms of Reference are set out at **Appendices 'B' – 'I'**. Full Council is therefore asked to consider the recommendation of the



Political Governance Working Group and approve the updated Committee Terms of Reference.

Also attached at **Appendix 'J'** are the proposed terms of reference for a new Local Pensions Partnership Limited Governance Panel. The establishment of this new panel is proposed following a review of the governance of Local Pensions Partnership Limited. The panel will provide a forum to discuss shareholder-related matters. Full Council is asked to approve the Local Pensions Partnership Limited Governance Panel's Terms of Reference.

Note, the Political Governance Working Group's and the Local Pensions Partnership Limited Governance Panel's Terms of Reference do not form part of the Constitution but still require Full Council's approval.

Scheme of Delegation to Officers

Subject to Full Council's agreement to the amended Committee Terms of Reference, the Scheme of Delegation to Officers requires updating to ensure consistency and avoid duplication. A number of additional changes are also proposed to ensure the Scheme continues to meet legislative requirements and best practice.

The proposed changes are as follows:

- Paragraph 6 of section 9.52 has been added and paragraph 58 has been amended, to ensure the council's processes comply with the statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England.
- Paragraphs 7 and 28 of section 9.52 have been added to authorise the Chief Executive or the Director of Law and Governance, as appropriate, to appoint Proper Officers except where the appointment is required to be made by Full Council, Cabinet or a Committee.
- Paragraphs 8 and 29 have been added to align with the Employment Committee's Terms of Reference and to comply with best practice on the process to follow when complaints or allegations of misconduct are received against statutory officers.
- Paragraph 13 and paragraphs 30 – 38 of section 9.52 have been added to align with the Pension Fund Committee's Terms of Reference and to reflect the pensions related responsibilities delegated to the Executive Director of Resources and the Head of Pension Fund respectively.

Full Council is asked to approve the updated Scheme of Delegation to Officers, as set out at **Appendix 'K'**.

Full Council Terms of Reference

Further to the review of the Pension Fund Committee's Terms of Reference, some matters included in the Local Pensions Partnership Limited Shareholder Agreement are currently omitted from Full Council's Terms of Reference.



Full Council is asked to approve the following addition to Full Council's Terms of Reference, as set out at section 3.5 of the Constitution:

"ad) Matters reserved to Full Council relating to the strategic operations of Local Pensions Partnership Ltd including:

- (i) Appointing and removing 'A' Directors;
- (ii) Changing the Articles of Association or any share rights impacting on any pre-approval matters;
- (iii) Decisions relating to the dilution or issue of shares and share options;
- (iv) The sale of any subsidiary, or the sale of any number of shares in any group company, to any person;
- (v) The creation of any holding company; and
- (vi) Entering into or participating in a wider pooling arrangement including with another Local Government Pension Scheme Fund."

Record of Changes

Under the Scheme of Delegation to Officers, the Director of Law and Governance is authorised to make amendments to the Constitution to correct an error or resolve an inconsistency, with all such changes to be reported to Full Council at the next available meeting.

Full Council is asked to note the record of changes to the Constitution, as set out at **Appendix 'L'**, which have been approved by the Director of Law and Governance since the last report to Full Council on 23 May 2024.

Appendices

Appendices 'A' - 'L' are attached to this report. For clarification they are summarised below and referenced at relevant points within this report.

Appendix	Title
Appendix 'A'	Procurement Rules
Appendix 'B'	Audit, Risk and Governance Committee Terms of Reference
Appendix 'C'	Conduct Committee Terms of Reference
Appendix 'D'	Employment Committee Terms of Reference
Appendix 'E'	Pension Fund Committee Terms of Reference
Appendix 'F'	Pension Fund Investment Panel Terms of Reference
Appendix 'G'	Local Pensions Board Terms of Reference
Appendix 'H'	Local Pension Board Supporting Guidance
Appendix 'I'	Political Governance Working Group Terms of Reference
Appendix 'J'	LPPL Governance Panel Terms of Reference
Appendix 'K'	Scheme of Delegation to Officers
Appendix 'L'	Record of changes since 23 May 2024

Consultations

N/A



Implications:

This item has the following implications, as indicated:

Legal

The council is required under section 9P of the Local Government Act 2000 to prepare and keep up to date its Constitution.

The council is also required under section 135 of the Local Government Act 1972 to make standing orders in connection with its contracting requirements for works, supplies and services.

On 12 September 2024, the Minister for the Cabinet Office announced that the Procurement Act 2023 would come into force on 24 February 2025, and not on 28 October 2024 as originally planned. This will allow the new government to revisit and rewrite the National Procurement Policy Statement to which contracting authorities will need to have regard under the Act. It is not anticipated that this review will lead to significant changes, and therefore the proposed Procurement Rules will ensure the council's standing orders and processes are fit for purpose and comply with the Procurement Act 2023.

Financial

The proposed Procurement Rules do not result in any direct cost implications; however, they do have an impact on decision-making processes and the authorisations required for different financial thresholds.

Risk Management

It is important the county council has an up-to-date Constitution to ensure that council decisions are made in an open, legal and democratic way with scrutiny, accountability and public engagement. The changes set out in this report will ensure the Constitution continues to enable accessible, accountable, accurate, clear, efficient and transparent decision-making at the county council.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Tel
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None		
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Reason for inclusion in Part II, if appropriate		
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