

Title: Revisions to the Constitution

Lead Officer: Graham Leach Head of Governance & Monitoring Officer

Portfolio Holder: Councillors Chilvers & Davison

Wards of the District directly affected: All

Approvals required	Date	Name
Portfolio Holder	26/2/2024	Cllrs Chilvers, Davison, J Harrison, Billiald, King, P Wightman and Roberts
Finance		
Legal Services		
Chief Executive	26/2/2024	Chris Elliott
Director of Climate Change	26/2/2024	Dave Barber
Head of Service(s)	26/2/2024	Graham Leach Andrew Rollins Phil Clarke Tracy Dolphin David Elkington Steve Partner Lisa Barker
Section 151 Officer	26/2/2024	Andrew Rollins
Monitoring Officer	26/2/2024	Graham Leach
Leadership Co-ordination Group	26/2/2024	
Final decision by this Committee or rec to another Cttee / Council?	No: 1 Recommendation to Council	
Contrary to Policy / Budget framework?	No	
Does this report contain exempt info/Confidential? If so, which paragraph(s)?	Yes, Appendix 1 confidential due to Paragraphs 3, as set out of the report.	
Does this report relate to a key decision (referred to in the Cabinet Forward Plan)?	Yes, Forward Plan item 1435 – scheduled for 6 March 2024	
Accessibility Checked?	Yes	

Summary

The report brings forward proposals for consideration by the Cabinet in respect of two distinct areas of the Constitution Public Speaking at Planning Committee and clarification on the Code of Procurement Practice. Subject to the clarification on procurement it also seeks approval for procurement exercises in line with the Confidential appendix to the report.

Recommendation(s)

- (1) That Cabinet recommends to Council that the public speaking procedure rules for Planning Committee in the Council's Constitution are amended to include the following revised Paragraph:

*"To ensure equity, applicants/supporters of the application will only be allowed to address the Committee if somebody has registered to speak **objecting to** ~~in the objectors category~~ for the application, except for cases where the recommendation is to refuse. An objector to the application may only address the Committee if **anyone Applicant/Supporter** is registered to speak **in support of** the application, except for cases where the recommendation is to grant."*

- (2) That Cabinet recommends to Council that the Code of procurement Practice is revised so that the definition of substantial procurement is defined as procurement exercises equal to or above the values defined as a Key Decision in Article 13 of the Constitution.

- (3) That Cabinet approves the procurement of the following, in line with the Confidential appendix 1 to the report, for the items listed below :

- (a) Memorial Safety inspections
- (b) WDC Corporate Cleaning
- (c) Insurance coverage and associated Services
- (d) Leaseholder Insurance coverage and associated Services
- (e) Temporary accommodation DPS
- (f) Water provider
- (g) Leamington Seasonal lights
- (h) Committee Management system
- (i) Provision of Pantomime Production at Royal Spa Centre
- (j) Supply and Delivery of Bulk Liquefied Petroleum Gas
- (k) Parking machine supply and maintenance
- (l) Hybrid Mail
- (m) Maintenance and repairs on Cremator equipment at Oakley Wood crematorium

- (4) That Cabinet notes ahead of new procurement regulations that are anticipated come into force in the next 8 months there will be a wider review of the Council's Code of Procurement Practice and associated procedures that will be considered by the Procurement Champions and reported back to Cabinet.
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1 Reasons for the Recommendation

1.1 The report brings forward several aspects for consideration by the Cabinet, and the reasons for these are set out below in the respective sections.

1.2 Public Speaking at Planning Committee

1.2.1 The current procedure rules for Planning Committee are worded so that supports/applicants may only address the Committee if speakers in the Objectors category are registered to speak. This may or may not have been the intention behind this proposal. However, on review by officers, this is considered to be unfair, in that the Applicant/Supporter does not have the ability to address the Committee if the Town/Council, Conservation Advisory Forum, or Ward Councillor speak against the application.

1.2.2 The proposal has been consulted on with the Chair and Vice-Chair of the Planning Committee who support the proposal.

1.3 Revision to the Code of Procurement Practice

1.3.1 The current procedure code of Procurement Practice says that Elected Members will "Consider initial business cases in relation to the Council's significant procurement project". This has been reviewed by officers following recent questions from Councillors and Officers on what and at what stage should Cabinet be approving procurement exercises.

1.3.2 There is no definition provided of significant and therefore, following discussions with Legal Services it was accepted the definition will therefore defer to that of Key Decisions which are set out within Article 13 of the Constitution, because Articles of the Constitution take precedent.

1.3.3 There are currently over 100 contracts that WDC holds in excess of the Key Decision Value of £150,000. Over the next 18 months it is expected around 50, excluding those in this report, will need to be considered by Cabinet. Those 50 are not all renewals of current contracts but also new areas of work such as the Cabinet report in February regarding the paddling pools. The revision will mean that Cabinet have a report setting out procurement exercises at an early stage to approve the remit of the exercise and the budget for that specific exercise.

1.3.4 As part of the wider review of procurement procedures, officers will be bringing forward proposals to the procurement champions on when a more detailed business case and report will be required by Cabinet.

1.4 Procurement Exercises

1.4.1 As part of the review of procurement, following the advice on procurement exercises being defined as significant, a number were identified that need to be considered by Cabinet. These are set out in the Confidential appendix (due to the values associated and the Council not wanting to declare the anticipated budget) to the report for consideration. These items and the reason for their procurement are set out within the confidential appendix to the report, so as not to disclose the Council's position in respect of the Anticipated cost.

1.4.2 It should be noted that these exercises are at various stages of procurement, due to when the issue was identified, and in those instances the work on procurement has almost been completed and these are brought back for confirmation so as to enable the works to be completed.

1.5 Revision to the Procurement Regulations

1.5.1 There are significant changes to procurement regulations making their way through Parliament, the Procurement Act received Royal Assent in October

2023. Secondary legislation is about to be launched and it is anticipated the implementation phase will start from April 2024.

2 Alternative Options

- 2.1 In respect of recommendation 1 the Cabinet could decide to retain the procedure as at present however this is considered not to provide equal opportunity to address Council.
- 2.2 In respect of recommendation 2 the Cabinet could recommend a different or higher value. However in doing so it would also then require new procedures to be introduced for officers to take key decisions. In doing so this would require further decisions from Cabinet and Council. Therefore this is not recommended at this time but may be a consideration for the wider review of procurement policies.
- 2.3 In respect of recommendation 3 the Cabinet could decide not to approve some or all of the proposed activities, however some of these have been identified at advanced stages and to pause or stop at this stage would significantly delay some of these activities where new contracts are required.

3 Legal Implications

- 3.1 There are legal implications when determining the financially sensitive Appendix to the report to the extent that the discussions on those appendices should be treated as confidential under (paragraph 3 under Local Government Act 1972 - Schedule 12A After the Local Government (Access to Information) (Variation) Order 2006). Following completion of any procurement each of the contracts for these products will be detailed on the Council's public contracts register.

4 Financial Services

- 4.1 The anticipated values of the contracts sought for procurement are built into the budget of the Council as agreed in February 2024.

5 Corporate Strategy

- 5.1 Warwick District Council has adopted a Corporate Strategy which sets three strategic aims for the organisation. The delivery of good procurement is a key aspect in delivering valued, sustainable services in order that the Council can continue to focus its efforts and activities on the needs of its residents, communities and businesses.

6 Environmental/Climate Change Implications

- 6.1 The environmental implications of the proposal in relation to the Council's policies and Climate Emergency Action Plan will be considered at early stage of procurement in line with the Council's current procurement code and with appropriate advice from officers.

7 Analysis of the effects on Equality

- 7.1 There are no direct Equality implications of the report and each procurement exercise will be required to complete Equality Impact Assessment as part of the procurement exercise.

8 Data Protection

- 8.1 There are no specific data protection implications of the proposals as set out, but any procurement activity which will result in a change of how the Council handles personal data or security of personal data will be subject to a Data

Protection Impact Assessment being approved before the final contract is awarded.

9 Health and Wellbeing

9.1 There are no direct health and wellbeing implications of the proposal.

10 Risk Assessment

10.1 There are minimal risks associated directly with the report as the report introduces improved equity of speaking at Planning Committee and improved governance for procurement as an interim measure.

Background papers: None

Supporting documents:

Warwick District Council Constitution [Article 13](#) & [Code of Procurement Practice](#)