

## North Devon Council

Report Date: 22<sup>nd</sup> February 2023

Topic: Constitution Update to Part 3 Annexe 2 and Part 4 Contract Procedure Rules

Report by: Simon Fuller, Senior Solicitor and Monitoring Officer

### 1. INTRODUCTION

1.1. A couple of omissions have been noted in the Officer Delegations in Annexe 2 of Part 3 of the Constitution and minor adjustments to reflect current law are required in the Contract Procedure Rules in Part 4 of the Constitution.

### 2. RECOMMENDATIONS

2.1. To approve the proposed amendments to Parts 3 and 4 of the Constitution as annexed to this report.

### 3. REASONS FOR RECOMMENDATIONS

3.1. Amendments to Annexe 2 of Part 3 are required to allow officers to act efficiently and in line with relevant policy and/or in accordance with current law.

3.2. Amendments to the Contract Procedure Rules in Part 4 are required to reflect the up to date position in law.

### 4. REPORT

4.1. The Constitution has been amended as shown in tracked changes in the Appendix.

4.2. The reason for each change is as set out below:

<b>Part and paragraph in Constitution</b>	<b>Reason for amendment</b>
Part 3 Annexe 2 para 4.12A	To allow All Heads of Service to award honorariums to officers up to the limit as provided by policy, currently set at £500. This is to allow Heads of Service to proactively manage their Services and award small honorariums where justified in line with relevant HR policies.
Part 3 Annexe 2 para 5.12	Amended to allow the Head of Planning, Housing and Health to revoke as well as suspend hackney carriage or private hire driver's licences, the position at present is refers to suspending licences only. While suspension can be appropriate to use to protect the public it is important that officers are able to revoke licences where appropriate. The reason being that case law has found that it is not lawful to issue a suspension pending further consideration of whether or not to revoke a licence at a later date. In

Part and paragraph in Constitution	Reason for amendment
	order to best protect the public it is appropriate that officers are able to make this determination quickly based on the evidence before them and it would not be possible to await a decision from members at committee level. Indeed, since officers are compelled to do this in compliance with current law they already are and, to do this, they are using the general power to All Heads of Service in paragraph 4.6, however this is not ideal and is at present an omission from the wording in paragraph 5.12 which needs correcting to avoid doubt.
Part 4, Contract Procedure Rules para 1	Definition of “2006 Regulations” removed as it is no longer in force or used by the Contract Procedure Rules.
Part 4 Contract Procedure Rule para 14.1 and 14.3	Value changed from £25,000 (excluding VAT) to £30,000 (including VAT) in line with Cabinet Office guidance in Procurement Policy Note (PPN) 01/23

## 5. RESOURCE IMPLICATIONS

5.1. There are no resource implications.

## 6. EQUALITIES ASSESSMENT

6.1. An Equality Impact Assessment has not been completed as no equality issues are affected.

## 7. ENVIRONMENTAL ASSESSMENT

7.1. There are no environmental implications of this report.

## 8. CORPORATE PRIORITIES

8.1. These changes will aid in the Council's Corporate Priorities of achieving financial security and on focussing to deliver the best for our customers.

8.2. The proposed amendments will also assist in delivering the best for customers by making the Council more efficient through clarifying and consolidating powers and responding to changes in law to ensure that officers have appropriate powers to deliver services as efficiently as possible.

## 9. CONSTITUTIONAL CONTEXT

9.1. Article 4.5.1

## 10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.



## 11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report:  
(The background papers are available for inspection and kept by the author of the report).

North Devon District Council's Constitution

## 12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers: Simon Fuller, Senior Solicitor and Monitoring Officer

## **APPENDIX**

### **TRACKED CHANGES VERSIONS OF CONSTITUTION PART 3 ANNEX 2 AND PART 4 CONTRACT PROCEDURE RULES**