

Changes to the Constitution

Report of the County Treasurer

Please note that the following recommendation is subject to confirmation by Committee before taking effect.

Recommendation: that Members approve the proposed changes to the Constitution as outlined below.

1. Background

- 1.1. Part 5c of the Constitution relates to Financial Regulations for which there are some elements now in need of updating.
- 1.2. Proposed changes are outlined in the following sections of this report and highlighted in detail in the attached appendix.
- 1.3. Consultation has been undertaken with Legal Services where appropriate.

2. Financial Regulations

- 2.1. Gifts & Hospitality (C12) – the Council's policy on this currently contains an anomaly which has the effect of providing contradictions in the detailed standards to be applied. It is proposed that this be corrected by removing an entry relating to legacies, which are currently listed as an exception in error.
- 2.2. New Item: Guarantees (C18) – in some exceptional circumstances the County Council is asked to act as guarantor for third parties. It is proposed that a new section be added to Financial Regulations to cover these arrangements as follows;

Any situation that requires the issue of a guarantee which has potential financial or resource implications must be agreed with the Chief Executive or relevant Chief Officer, as appropriate, and agreed with the Chief Finance Officer.

- 2.3. Income (D10): Scales of Fees & Charges – this section currently sets out the need for regular review of scales of fees & charges and variations. This has been expanded to provide specific reference to 'New Fees & Charges' as set out below.

It is proposed that;

- (i) Scales of fees & charges and allowances must be reviewed annually by the Chief Executive or relevant Chief Officer.
- (ii) Any proposed variations must be agreed by the Chief Executive or relevant Chief Officer, and agreed with the Chief Finance Officer and Cabinet member;

- (iii) New fees & charges must be agreed by the Chief Executive or relevant Chief Officer, and agreed with the Chief Finance Officer and submitted to Cabinet for approval;

2.4. Income (D10): Detailed Standards – this section has been expanded to provide further clarity to Heads of Service on the existing requirement for prompt rendering of accounts and prompt account recovery. COVID19 has highlighted issues in this respect with some requests for deferral of debt and other debt related requests.

For clarity, it is proposed that;

- (i) Any request to defer debt and other debt related requests that have funding or cashflow implications require the agreement of the Chief Finance Officer;
- (ii) That the County Solicitor be consulted, in the event that there are potential legal or contractual issues arising from debt deferral or other debt related requests;

Mary Davis

County Treasurer

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<u>Background Paper</u>	<u>Date</u>	<u>File Ref</u>
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Nil

There are no equality issues associated with this report.

Financial Regulations

C12 Gifts and Hospitality

The Council and the Public expect the highest standards of integrity from public servants. Formal standards are in place to guide staff and Members on these matters and to ensure consistency of judgement.

C 12.1 All employees must observe the provisions of the Council's policy on Gifts and Hospitality which is reproduced in the detailed standards below.

Detailed Standards

C 12.1.1 A particular source of conflict between the private and the public interest is the offer of gifts, hospitality or other benefits in kind to Councillors and Officers in connection with their official duties. A difficult exercise of judgement may sometimes be necessary to decide how the public interest, and the Council's good name, may best be served. A reasonable amount of entertainment is a normal part of the courtesies of public life and extreme inflexibility can give unnecessary offence to people and organisations with whom the Council's relationships should be cordial. But an appearance of improper influence is easily created, and with it encouragement of cynicism about the motives of those who serve in Local Government.

C 12.1.2 With the exceptions listed below, an Officer should refuse any personal gift offered to them or to a member of their family by any person or body who has or seeks dealings with the Council. The offer should be reported immediately to the Chief Officer concerned. These paragraphs are particularly directed to individuals or organisations or persons who already do or who seek to provide work, goods or services to the Council, e.g. building contractors, suppliers of goods or equipment and firms able to provide professional or commercial services to the Council. In addition, there may be occasions where because of the special relationship between the donor and donee, e.g. social worker and client, similar rules should apply. In these cases, legacies, fees or presents of any description should not be accepted and any employee in doubt should first seek the advice of the Head of Service/ Chief Officer.

C 12.1.3 Exceptions :-

(i) A modest gift of a promotional character given to a wide range of people. These gifts are usually given at Christmas-time and include calendars, diaries, desk sets, tape measures, scales and other articles of use in the office.

(ii) Gifts on the conclusion of any courtesy visit to a factory or firm of a sort normally given by that firm.

(iii) A modest gift where refusal would cause needless offence and the giver is not seeking a decision of business but merely wishes to express thanks for advice, help or co-operation received, e.g. a modest gift from a client for personal care.

~~(iv) An unsolicited legacy from a client for personal care, which must be reported to Cabinet.~~

It is wise to err on the side of caution and an obviously expensive gift should raise a question even if it otherwise falls within one of the above categories. If in doubt, seek the advice of the Head of Service/Chief Officer.

C 12.1.4 When a gift has to be refused, this should be with tact, because the offer of gifts is common practice in the commercial world. In some cases a gift is simply delivered and there may be a problem over returning it. It is sometimes acceptable to the giver for the gift to be the subject of a raffle and the proceeds placed to a charitable fund, e.g. Unison Welfare Fund. An arrangement of this sort should only be made with the Head of Service approval and recorded by letter.

C 12.1.5 Hospitality is sometimes offered to representatives of the Council and is accepted at official level because it is reasonable in all the circumstances. Where it is offered to individual employees, special caution is needed where the host is seeking to do business with the Council or to obtain a decision from it. It is important to avoid any suggestion of improper influence. The question is one of judgement and the following examples are intended to give general guidance:-

Acceptable

* A working lunch of modest standard provision to allow the parties to continue to discuss business. Senior Officers should consider reciprocation on a subsequent occasion if there is need for further meetings.

* Invitation to a Society or Institute dinner or a function, for example, private architect inviting Devon Property Practice staff to RIBA dinner.

* Invitation to take part in a sporting event.

* Invitation to take part in Company jubilee or other anniversary celebration.

Unacceptable

* Holiday abroad or weekend in a holiday centre.

* Offer of hotel and tickets for theatre.

* Use of Company flat or hotel suite.

* Invitation to attend sporting events at the courtesy of a private individual or company

In general terms, it will often be more acceptable to join in hospitality offered to a group than to accept something unique to oneself. When a particular matter is currently in issue with the County Council, e.g. an arbitration, then clearly common sense dictates that offers of hospitality be refused even if in normal times they would be on the acceptable list.

C 18 Guarantees (New Section)

Where there is a need for the issue of a guarantee which has potential financial or resource implications, this must be agreed with the Chief Executive or relevant Chief Officer, as appropriate, and agreed with the Chief Finance Officer.

D10 Income and Banking

It is important to ensure that all income due to the Council is identified, collected on time and recorded accurately in the Councils accounts. Also, banking arrangements must be appropriate and well recorded for the Council to exercise adequate control.

Income

- D10.1 Heads of Service/Chief Officers are responsible for the collection of sums due to the Council and for the issuing of receipts and invoices in accordance with the detailed standards below.
- D10.2 A limit is imposed on the cash amount to be received in settlement for the payment for goods and services of £10,000 in any one transaction. This limit is required to ensure that the County Council complies with the Money Laundering Regulations 2007.
- D10.3 Scales of charges for services and allowances and any variations thereof (except where fixed by statute) must be reviewed **annually at regular intervals** by the Chief Executive or the relevant Chief Officer, as appropriate. **Any proposed variations must be agreed with the Chief Finance Officer and Cabinet member before submission to Cabinet for approval.**
- D10.4 **New scales of fees & charges and allowances must be reviewed by the Chief Executive or the relevant Chief Officer, as appropriate, and agreed with the Chief Finance Officer and submitted to Cabinet for approval.**

Detailed Standards

D 10.1.1 The Chief Finance Officer must be consulted by Heads of Service on proposals to acquire any cash till or accounting equipment.

D 10.1.2 The records kept by each department with regard to items of income must be in such form as may be required by the Chief Finance Officer.

D 10.1.3 Heads of Service must provide to the Chief Finance Officer such particulars in connection with work done, goods supplied, or services rendered and all other amounts due, as may be required to record correctly all sums due to the Council and to ensure promptness in the rendering of accounts and the recovery thereof. In this respect;

D 10.1.4 Any request to defer debt (and other debt related requests that have funding or cashflow implications) require the agreement of the Chief Finance Officer. Where there are potential legal or contractual issues the County Solicitor must be consulted.

D 10.1.54 The Chief Finance Officer must be promptly notified of all money due to the Council under contracts, leases, tenancy and other agreements, conveyances and other arrangements entered into which involve the receipt of money by the Council, and must have access to the original documents or relative particulars.

D 10.1.65 The Chief Finance Officer must maintain a detailed record of land and building in respect of which rent is or may be receivable, together with sufficient details of the terms of tenancy to enable the correct amount of rents receivable to be recovered, either directly from the tenant, or by deduction from salary or wages in the case of service tenancies.

D 10.1.76 Sums properly due to the Council must not be written off until the Chief Finance Officer is satisfied that all steps possible have been taken to recover the sums due. Sums in excess of £2,500 will be determined after consultation with the County Solicitor. After this consultation, the authority of the Cabinet Member must then be obtained to write off sums due in excess of £10,000.

D 10.1.87 Where the Council contracts to supply goods or services to external parties, the arrangements must avoid inappropriate subsidy.