

CONSTITUTION UPDATE**WDA/20/26****Recommendation**

It is recommended that:

1. Members note the contents of the report on the review of the Constitution undertaken by the Centre for Governance & Scrutiny;
2. Members adopt the updated Scheme of Delegation for the 2026/27 Municipal Year;
3. Members note the proposed delegation authorisations allowed under Clause 2.4 of the Scheme of Delegation;
4. Members agree to adopt the revised Authority Procedural Rules;
5. Members agree to adopt the revised Financial Procedural Rules;
6. Members agree to adopt the revised Contract Procedural Rules;
7. Members agree to adopt the revised Constitution accordingly.

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CONSTITUTION UPDATE
WDA/20/26

Report of the Monitoring Officer

1. Purpose of the Report

- 1.1 To provide Members with an update on the annual review of the Authority's Constitution including the outcome of an independent review of the Constitution undertaken by the Centre for Governance and Scrutiny during 2025/26.
- 1.2 To recommend that Members adopt the revised Scheme of Delegation for the 2026/27 Municipal Year.
- 1.3 To recommend that Members note the proposed delegation authorisations allowed for under Clause 2.4 of the Scheme of Delegation.
- 1.4 To note the proposed amendment and recommend that Members agree to adopt the revised Authority Procedural Rules.
- 1.5 To note the revised document and recommend that Members agree to adopt the updated Financial Procedural Rules.
- 1.6 To note the proposed amendments and recommend that Members agree to adopt the revised Contract Procedural Rules.
- 1.7 To seek Members' agreement to adopt the Constitution accordingly.

2. Background

- 2.1 At the commencement of a new municipal year, it is appropriate for the Constitution to be reviewed and (if necessary) updated and adopted by the Authority. The Monitoring Officer is responsible for ensuring that the Constitution for the Authority is up to date, relevant and effective. Any proposed changes to the Constitution are subject to Member approval.
- 2.2 The Constitution comprises a set of documents which define the Authority's governance arrangements. This includes:
 - Scheme of Delegation (Article 1)
 - Authority Procedural Rules (Article 2)

- Financial Procedural Rules (Article 3)
- Contract Procedural Rules (Article 4)
- Information Procedural Rules (Article 5)
- Protocol for Reporting at Meetings (Article 6)
- Code of Conduct for Members (Article 7)
- Code of Conduct for Employees (Article 8)
- Member / Officer Protocol (Article 9)

2.3 Rule 3.2(vi) of the Authority Procedural Rules requires the Authority to adopt its Scheme of Delegation at its Annual Meeting each year.

3. Constitution – independent review

- 3.1 Whilst the Constitution is reviewed annually, the review has generally been internal and mostly ‘light touch’. During the 2025/26 year, a more in-depth, independent review was commissioned and undertaken by the Centre for Governance and Scrutiny (CfGS).
- 3.2 The CfGS review focussed on the current Constitution documents and spoke to a number of Authority Members as part of the review. A copy of their final report is provided at Appendix 1.
- 3.3 The report found no fundamental flaws in MRWA’s Constitution and governance arrangements and was generally complimentary about the Authority’s approach, making a small number of improvement recommendations.
- 3.4 The outcome recommendations (detailed in section 6 of the CfGS report) can be summarised as follows:
- Review & refresh the Authority’s Constitutional documents
 - Clarify the role of Authority Members (by including detail within the Constitution itself)
 - Strengthen opportunities for Member engagement by establishing a programme of Member workshops or briefings
 - Strengthen Member induction and development
 - Review Committee arrangements

- Implement governance improvements through a phased programme of updates
- Consider a special responsibility allowance for Authority Members

3.5 The Senior Leadership Team have reviewed the report recommendations, and respond as follows:

- The Authority's Constitutional documents have been reviewed and updates provided for Member review and approval through this report.
- The role of Authority Members is set out in Article 9 Member/Officer Protocol. The recommendation in the CfGS report will be reviewed with a view to refreshing Article 9 (and specifically clarifying the role of Authority Members) in due course.
- A range of dedicated Member briefings and workshops have been undertaken during the past year, and further sessions on the Future Waste Services project and other topic specific issues (such as the Emissions Trading Scheme) will be arranged during the coming year.
- Member induction & development has been reviewed and an improved Member training programme is being developed which will take into account demands on time from additional workshops/briefings that may be arranged.
- Committee arrangements have been reviewed (including the terms of reference for the Future Waste Services Project Board and those of the Audit Committee) and are reported separately (under the Appointments & Committees reports) for Member consideration at this Authority meeting.
- Noting the recommendation, a number of key governance improvements have been dealt with through this and other reports at this meeting and that of the Audit Committee. The Primary Assurance Group will maintain oversight on governance matters through the course of the year and will identify/implement further governance improvements as necessary.
- MRWA does not have the legal powers to pay a special responsibility allowance; this is a matter that resides with Members' own constituent Authorities.

4. Constitution Updates

Scheme of Delegation

- 4.1 Article 1 of the Authority's Constitution is the Scheme of Delegation (attached at Appendix 2); this describes the Authority's decision-making process and defines three levels of decisions as follows:
- **Key Decisions** are decisions having a significant financial or community impact as defined in the Authority Procedural Rules, or if the Chief Executive is of the view that a decision should be a Key Decision.
 - Key Decisions cannot be delegated except under urgent action in line with the Authority Procedural Rules.
 - **Executive Decisions** and **Administrative Decisions** are decisions which can be delegated to officers subject to the limitations defined in the Scheme of Delegation.
- 4.2 Clause 2.4 of the Scheme of Delegation allows for the Chief Executive or Statutory Officers to further delegate any function delegated to them under the Scheme to another Officer or Officers. Attached at Appendix 3 are the proposed delegations for the coming year.
- 4.3 The Scheme has been reviewed, and the following amendments proposed:
- Section 4 (Administrative Decisions), has been amended to reference the requirement that Administrative Decisions cannot be in conflict with the Finance Procedural Rules and Contract Procedural Rules. This approach helps to streamline any future changes, ensure consistency between the respective documents and removes the requirement to reference specific values within the Scheme of Delegation itself (which have been removed from section 4, and are now referenced in the Financial and Contract Procedural Rules).
- 4.4 Members are asked to note and adopt the updated Scheme of Delegation attached at Appendix 2 in accordance with Rule 3.2 (vi) of the Authority Procedural Rules.

Authority Procedural Rules

- 4.5 Article 2 of the Authority's Constitution are the Authority Procedural Rules, those rules which set out how the Authority conducts its business.
- 4.6 These rules set out the definitions used in other documents (such as the Scheme of Delegation) including that of Key Decision.

4.7 The financial limits within the ‘Financially Significant’ element of the definition of a Key Decision are proposed to be amended as follows:

- *Key Decision” – a decision*
 - (i) *incurring expenditure or making savings which are Financially Significant, unless the specific expenditure or saving has previously been agreed by the Authority;*
 - (ii) *which, in the view of the Chief Executive, in consultation with the Chair, is significant in terms of its effect on communities living or working in Merseyside; or*
 - (iii) *the Chief Executive is of the opinion that it should be treated as a Key Decision.*

Financially Significant

A decision will be considered financially significant if:-

- a) in the case of revenue expenditure, it results in incurring expenditure or making savings of 360,000 (inc VAT) or greater;*
- b) in the case of capital expenditure, the capital expenditure/savings are in excess of £360,000 (inc VAT);*

4.8 A copy of the proposed updated Authority Procedural Rules incorporating this amendment are attached at Appendix 4 to this report.

Financial Procedural Rules

4.5 Article 3 of the Constitution are the Finance Procedural Rules, those rules which set out the Authority’s financial management approach.

4.6 A detailed review and refresh of the Finance Procedural Rules has been undertaken by the Director of Finance and has been reviewed by the Authority’s Audit Committee at its meeting of 18th June 2026.

4.7 The changes made in the updated Financial Procedural Rules have resulted in a more comprehensive set of procedures that incorporate:

- i) budget virement thresholds;
- ii) capital programme;
- iii) Land & Property transactions;
- iv) Treasury management.

- 4.8 A copy of the updated Financial Procedural Rules is provided at Appendix 5 to this report.

Contract Procedural Rules

- 4.8 Article 4 of MRWA's Constitution are the Contract Procedural Rules, the set of rules that relate to the supply of services, the purchase, leasing and hiring of goods and the execution of works for the Authority.
- 4.9 It is a requirement of the Contract Procedural Rules that every contract entered into by the Authority is made in compliance with those Rules, which are intended to reflect the requirements of relevant legislation.
- 4.10 The Authority's Contract Procedural Rules underwent a root and branch review during 2024/25 with the update approved at the 2025 Authority AGM, that review reflecting the changes put in place by the Procurement Act 2023.
- 4.11 The Rules have been reviewed for the purposes of this report, with proposed amendments reviewed by the Authority's Audit Committee at its meeting of 18th June 2026. The following summarises the key amendments proposed to the Contract Procedural Rules proposed at this time:
- i) All financial threshold values have been updated to reflect the latest UK public procurement threshold values, effective from 1st January 2026.
 - ii) The requirement for completion of a Project Initiation Document for all procurement activities exceeding £30,000 inc VAT.
 - iii) Clarification of authorisation levels for exceptions to the application of the Contract Procedural Rules.
- 4.12 A copy of the updated Contract Procedural Rules is provided at Appendix 6.
- 4.13 There are no further proposed changes to the Authority's Constitution at this time.

5. Risk Implications

- 5.1 The following risk analysis has been considered in relation to this report:

Identified Risk	Likelihood Rating	Consequence Rating	Risk Value	Mitigation
Delegation of decisions not proportionate to levels of responsibility.	1	5	5	Constitution documents define scope and limitations for taking delegated decisions.
Members and officers not aware of levels of delegation.	2	4	8	Review and adoption of Scheme by the Authority each year. Constitution included in training and induction programmes.
Updated rules not disseminated.	2	3	6	The revised Constitution will be published on the Authority's website.
Procedures for procurement are not aligned with the latest legislation.	2	3	6	Professional advice sought as necessary to ensure procedures are up to date and aligned with latest legislation.

6. HR Implications

- 6.1 All staff responsible for procuring on behalf of the Authority will be provided with training and guidance in the agreed Contract Procedural Rules and the supporting documentation.

7. Legal Implications

- 7.1 MRWA's procurement processes are defined by legislation, principally (for the majority of MRWA's procurements) the Procurement Regulations 2024. Failure to follow the requirements of this legislation would put the Authority at risk of challenge and potential legal action. The update to the Contract Procedural Rules will ensure the Rules are aligned with the latest legislation and will be continuously updated as that legislation changes.

8. Environmental Implications

8.1 There are no environmental implications associated with this report.

9. Financial Implications

9.1 There are no financial implications associated with this report.

10. Conclusion

10.1 This report provides the annual Authority update to the Constitution.

10.2 It is therefore recommended that:

- i) Members note the contents of the report on the review of the Constitution undertaken by the Centre for Governance & Scrutiny, and the officer response to the report recommendations attached at Appendix 1;
- ii) Members adopt the updated Scheme of Delegation for the 2026/27 Municipal Year, attached at Appendix 2;
- iii) Members note the proposed delegation authorisations allowed under Clause 2.4 of the Scheme of Delegation, attached at Appendix 3;
- iv) Members agree to adopt the revised Authority Procedural Rules, attached at Appendix 4;
- v) Members agree to adopt the revised Financial Procedural Rules, attached at Appendix 5;
- vi) Members agree to adopt the revised Contract Procedural Rules, attached at Appendix 6;
- vii) Members agree to adopt the revised Constitution accordingly.

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The background documents to this report are open to inspection in accordance with Section 100D of The Local Government Act 1972 - Nil.

