

Title of Report:	Amendments to the Constitution - Scheme of Delegation
Report to be considered by:	Council
Date of Meeting:	03 March 2015
Forward Plan Ref:	C2911

Purpose of Report: To review and amend sections of the Scheme of Delegation in light of legislative changes and current practice.

Recommended Action: To agree the proposed amendments to the Scheme of Delegation

Reason for decision to be taken: To ensure that the Council has adjusted the scheme in light of legislative changes

Other options considered: None

Key background documentation: None.

Published Works: None

The proposals will also help achieve the following Council Strategy principles:

- CSP7 - Empowering people and communities**
- CSP8 - Doing what's important well**

The proposals contained in this report will help to achieve the above Council Strategy priorities and principles by:
Ensuring that the Constitution is up to date.

Member Details	
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Date Portfolio Member agreed report:	09 February 2012

Contact Officer Details	
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Implications

Policy: Will require changes to the Constitution
Financial: None
Personnel: None
Legal/Procurement: Will require the Constitution to be updated
Property: None
Risk Management: None

Is this item relevant to equality?	Please tick relevant boxes	Yes	No
Does the policy affect service users, employees or the wider community and:			
• Is it likely to affect people with particular protected characteristics differently?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
• Is it a major policy, significantly affecting how functions are delivered?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
• Will the policy have a significant impact on how other organisations operate in terms of equality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
• Does the policy relate to an area with known inequalities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)			
Relevant to equality - Complete an EIA available at http://intranet/EqIA			<input type="checkbox"/>
Not relevant to equality			<input checked="" type="checkbox"/>

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval	<input checked="" type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	
Delays in implementation could compromise the Council's position	<input type="checkbox"/>	
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	
Report is to note only	<input type="checkbox"/>	

Executive Summary and Report

1. Introduction

- 1.1 Following an internal audit of the Management of the Constitution in 2010 it was noted that one of the responsibilities of the Finance and Governance Group is to have ownership of the Council's Constitution. The content of the Local Code of Corporate Governance says that there will be an annual review of the operation of the Constitution.
- 1.2 A timetable has been established for the Finance and Governance Group to review individual sections of the Constitution and a number of Officers have been involved in revising specific parts of the Constitution. This report proposes amendments to Part 3 of the Constitution, the Scheme of Delegation.
- 1.3 In addition there is a constitutional requirement for the Leader of the Council to present to the Council a written record of delegations they have made for inclusion in Part 3 of the Constitution.
- 1.4 The Scheme of Delegation summarises which part of the decision-making process (e.g. the Council, Executive, the Area Planning Committees, Licensing Committee/Sub-Committee, the Standards Committee and the Personnel Committee) is responsible for which function. This Scheme also sets out the extent to which the powers and duties of the Council are delegated to Officers.
- 1.5 All Directors and Heads of Service have been asked to advise of any changes they require to the Scheme of Delegation to ensure that the Council's Constitution is as up to date as possible. The report proposes a small number of changes for the Council to consider. These are set out below.
- 1.6 The following key changes have been made to the document by Officers:
 - (1) *The Head of Human Resources*
 - (a) Change reference from Timelord to homeworking in paragraph 3.3.3 (Human Resources);
 - (b) Changes to the procedures in relation to organisational changes in paragraph 3.3.3 (Human Resources).
 - (2) *The Head of Adult Social Care*
 - (a) Amend paragraph 3.7.2 (Disability) to use the term community care legislation instead of specific legislation previously included.
 - (b) Amend paragraph 3.7.3 (Home Care Services: Financial Matters) to use the term community care legislation instead of specific legislation previously included.
 - (c) Remove the previously numbered paragraph 3.7.4 (Carers) and replace it by including reference to carers in 3.7.3 (Home Care Services: Financial Matters).

- (3) *The Head of Care Commissioning, Housing and Safeguarding*
- (a) In paragraph 3.8.1 (Housing Act 2004) include reference to Compulsory Purchase Orders;
 - (b) Insert an additional heading 3.8.11 (safeguarding) and include authorisations in relation to the deprivation of liberty in relation to the mental Capacity Act 2005.
- (4) *The Head of Strategic Support*
- (a) Inclusion of paragraph 3.9.7 (Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended)) which delegate authority to the Head of Strategic Support in consultation with the Leader of the Council and the Leader of Opposition, to appoint members to the Independent Remuneration Panel.
- (5) *The Head of Highways and Transport*
- (a) Inclusion of paragraph 3.12.15 (The Traffic Management (West Berkshire Council) Permit Scheme Order 2014) which delegates authority to grant permits to utility companies to work on the public highway.
- (6) *Head of Planning and Countryside*
- (a) Correction of the Job Title of the Head of Culture and Environmental Protection in 3.14.1.
- (7) *The Head of Culture and Environmental Protection*
- (a) The order of some of the delegations has been re-ordered.
 - (b) Redirected paragraph 3.15.2 (General) which deals with the delegation in respect of the day-to-day management of the Council portfolio of land and buildings, including lease renewals, assignments and rent reviews, subject to the concurrence of the appropriate Heads of Service and/or Corporate Director.
 - (c) Amended paragraph 3.15.3 (Waste Management) which now delegates authority to the Waste Manager to enforce and administer a range of primary legislation secondary legislation as set out in the document.
 - (d) Included additional legislation into paragraph 3.15.4 (Exercise of Powers under Legislation)
 - (e) Moved the bullet point relating to the granting of a licence and associated consents for the annual Michaelmas Fair. From General to Culture General 3.15.6.
- (8) *The Head of Education Services*
- (a) Included additional legislation into paragraph 3.16.1 (General)
 - (b) In paragraph 3.16.2 (Admissions) reference to Standard Numbers has been replaced with the term Admission Numbers which is now used.

- (c) Additional amendments to paragraph 3.16.2 (Admissions) to correct two omissions.
- (d) Amendments to the first two bullet points of paragraph 3.16.3 (Attendance at School) to align the Constitution to the relevant policies.
- (e) To update paragraph 3.16.4 (Special Education Needs) in line with legislative changes and current practice.
- (f) To update paragraph 3.16.5 (School Term Date) to reflect the revised name of the Education Board and the Local Authority.
- (g) To update paragraph 3.16.7 (Curriculum) by removing the first two bullet points.
- (h) To update paragraph 3.16.8 (Staffing – In respect of Nursery Schools) by removing the second, fourth and fifth bullet points
- (i) To include a comment on redundancy situations in the third bullet point of 3.16.9 (Staffing – In Respect of Primary, Secondary and Special Schools)
- (j) To update paragraph 3.16.10 (All Education Establishments) by removing the first bullet point.

1.7 The Scheme of Delegation was discussed at the Governance and Audit Committee meeting on the 09 February 2015 and in addition to the amendments listed above they also agreed to recommend to Council the following changes which were tabled at the meeting:

Paragraph	Amendment	Reason
3.16.10	Delete The Education (School Teachers' Appraisal) (England) Regulations 2000 and replace with The Education (School Teachers' Appraisal) (England) Regulations 2012	To update reference to legislation
3.14.22 (new)	Insert: Planning Act 2008 To exercise the Council's powers and duties under the Planning Act 2008 and any secondary legislation made thereunder, and including any amendments or updates to the legislation. <i>This insertion will require the following two headings under 3.14 to be renumbered .</i>	To ensure that the Head of Planning and Countryside has delegated powers to implement CIL and enforce non payment
3.15.3	Delete: <ul style="list-style-type: none"> • Fireworks Act 1951 • Petroleum (Consolidation) 	They have all been revoked

	Act 1928 <ul style="list-style-type: none"> • Petroleum (Transfer of Licences) Act 1936 	
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1.8 Following a meeting of Corporate Board on the 10 February 2015 the title of the Head of Children’s Services has been amended to the Head of Children and Family Services.

2. Proposals

2.1 It is proposed that the revised Scheme of Delegation be approved.

3. Equalities Impact Assessment Outcomes

3.1 This item is not relevant to equality.

4. Conclusion

4.1 The report is a required update to take cognisance of legislative changes.

Appendices

Appendix A – Part 3 of the Constitution (Scheme of Delegation)

Consultees

Local Stakeholders: N/a

Officers Consulted: All Heads of Service, Moira Fraser, Corporate Board, Governance and Audit Committee

Trade Union: N/a