
Amendments to the Constitution - Scheme of Delegation

Committee considering report:	Council on 1 March 2016
Portfolio Member:	Councillor Roger Croft
Date Lead Member agreed report:	28 January 2016
Report Author:	David Holling
Forward Plan Ref:	C2981

1. Purpose of the Report

- 1.1 To review and amend sections of the Scheme of Delegation in light of legislative changes and current practice.

2. Recommendation

- 2.1 To agree the proposed amendments to the Scheme of Delegation.

3. Implications

- 3.1 **Financial:** None
- 3.2 **Policy:** Will require Part 3 of the Constitution to be updated
- 3.3 **Personnel:** None
- 3.4 **Legal:** Will require Part 3 of the Constitution to be updated
- 3.5 **Risk Management:** None
- 3.6 **Property:** None
- 3.7 **Other:** None

4. Other options considered

- 4.1 None

5. Executive Summary

- 5.1 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.
- 5.2 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.
- 5.3 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.
- 5.4 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 Governance and Ethics 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.
- 5.5 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.
- 5.6 Amendments have also been made to the Scheme of Delegation to reflect the merging of the Governance and Audit and Standards Committees.
- 5.7 The following key changes have been made to the document by Officers:

The Head of Highways and Transport

- 1) Changes proposed to strengthen paragraph 3.12.2 (Transport) in relation to Concessionary Fares.

The Head of Human Resources

- 2) Changes proposed to paragraph 3.1.3 (Responsibility for Council Functions) to align the Constitution with the Discretionary Compensation Payments Policy. Requests for the Council to make enhanced severance payments or grant premature retirements on the grounds of efficiency will be considered and approved on an individual basis by the Personnel Committee. Where the total cost to the Council of a termination will exceed £10,000, the costs must first be approved by the Executive. Below £10,000, the costs must be approved by the Chief Executive in consultation with the Leader and Shadow Leader of the Council.
- 3) It is proposed that the final bullet point under section 3.3.3 (Human Resources) be removed as Corporate Directors and Heads of Service have no delegated powers with regard to approval of compensation payments.

The Head of Finance

- 4) It is proposed that the ninth bullet point in section 3.5.3 (Finance General) be deleted.
- 5) Update paragraph 3.5.7 (Local Government Finance Act 1988) third paragraph in line with legislative changes.

The Head of Adult Social Care

- 6) Inclusion of an additional paragraph 3.7.3 (Better Care Fund) to allow the Head of Adult Social Care to approve Better Care Fund performance reporting to NHS England in consultation with the Chairman and Vice-Chairman of Health and Wellbeing Board.

The Head of Care Commissioning Housing and Safeguarding (CCH&S)

- 7) Delete paragraph 3.8.10 (Energy Act 2011) as the Council no longer has the Community Interest Company for Green Deal and to include an additional paragraph 3.8.10 (Disability) appointing the Head of CCH & S to also act as a deputy in all matters in which it is appropriate for the Council to act and in accordance with any Court Orders made by the Court of Protection (see paragraph 3.7.2). The Head of ASC needs it for Health and Welfare orders and the Head of CCH&S needs it for Property and Affairs orders.

The Head of Planning and Countryside

- 8) Include two additional paragraphs 3.14.16 (Section 1 Burial Act 1853) and 3.14.17 (Section 215 Local Government Act 1972) to have authority to enter into a closure of churchyards and transfer of maintenance responsibilities.

The Head of Culture and Environmental Protection

- 9) Include two additional paragraphs 3.15.17 (Section 1 Burial Act 1853) and 3.15.18 (Section 215 Local Government Act 1972) to have authority to enter into a closure of churchyards and transfer of maintenance responsibilities.
- 10) Paragraph 3.14.5 (Berkshire Act 1986) moved to 3.15.8 (Berkshire Act 1986) to reflect that the Building Control Function has moved from the Planning and Countryside Team to this Service.
- 11) Paragraph 3.15.1 (Authorisation) amended to reflect current practice.
- 12) Update paragraph 3.15.3 (Enforcement and Administration Legislation) to reflect current legislation.

The Head of Education Services

- 13) Minor amendments to paragraph 3.16.2 (Admissions) and 3.16.3 (Attendance at School) to reflect current practice.
- 14) Ensure that paragraph 3.16.15 (Post 16 Years – Education and Training Provision) refers to the appropriate legislation.

The Head of Customer Services

15) Paragraph 3.4 (Schedule of Proper Officer Appointments) amended to reflect that the Registration Service was now managed by this team.

5.8 The Scheme of Delegation was discussed at the Governance and Ethics Committee meeting on the 08 February 2016 and in addition to the amendments listed above they also agreed to recommend to Council the following change which was agreed at the meeting:

Paragraph	Amendment	Reason
3.1.3 (Table 2) – Page 44 last block	After the word ‘pensions’ in the functions column add severance payments/ premature retirements	To ensure that the amendment was reflected in the functions.

6. Conclusion

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

7. Appendices

7.1 Appendix A – Part 3 of the Constitution (Scheme of Delegation) showing tracked changes.