

CABINET

4 June 2008

MINOR AMENDMENTS TO THE CONSTITUTION

REPORT OF HEAD OF DEMOCRATIC SERVICES

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RECENT REFERENCES:

None.

EXECUTIVE SUMMARY:

This report proposes some minor amendments to the Constitution.

The main alterations result from the changes to the Portfolio Holders agreed at the last Cabinet on 15 May 2008. Appendix 1 sets out consequential amendments to the Portfolio Holder delegation scheme which are within the scope of the Delegation Scheme already approved by Council (Part 3 of the Constitution, Section 3).

Recommendation 2 of this Report also requests that delegated authority be granted to the Corporate Director (Governance) to reflect the new Portfolio Holder titles and responsibilities in the Scheme of Delegation to officers.

Appendix 2 of the Report proposes further changes to the Scheme of Delegation to Officers in order to clarify the authority of the Head of Planning Control.

Appendix 3 proposes changes to the Financial Procedure Rules as recommended by Internal Audit in relation to construction industry payments and to clarify authority for write-offs under the new Council structure.

The minor amendments to the Council Procedure Rules are as a consequence of the new Code of Conduct for Members. In addition, it is proposed that Procedure Rule 14(2)(a) procedure for Council questions be deleted as delegated minutes are no longer included in the Council Minute Book. Questions under any delegated minutes can be dealt with under the revised 14(2). Appendix 4 sets out the proposed changes.

RECOMMENDATIONS:

TO CABINET:

1. That the amended Portfolio Holder delegation scheme be approved as set out in Appendix 1 to the Report (Part 3 of the Constitution, Section 3).
2. That delegated authority be granted to the Corporate Director (Governance) to make necessary alterations to the Scheme of Delegation to Officers to reflect the new Portfolio Holder titles and responsibilities.

TO COUNCIL:

3. That the amended Scheme of Delegation to Officers be approved as set out in Appendix 2 of the Report (Part 3 of the Constitution, Section 6).
4. That the amendments to the Financial Procedure Rules be approved, as set out in Appendix 3 of the Report (Part 4 of the Constitution).
5. That the amendments to the Council Procedure Rules be approved, as set out in Appendix 4 of the Report (Part 4 of the Constitution).

OTHER CONSIDERATIONS:

1 CORPORATE STRATEGY (RELEVANCE TO):

- 1.1 Relevant to the strategic priority of being an efficient and effective Council.

2 RESOURCE IMPLICATIONS:

- 2.1 Work on updating the Constitution is undertaken within existing resources.

3 BACKGROUND DOCUMENTS: None

APPENDICES:

Appendix 1 – Amendments to Portfolio Holder Delegation Scheme

Appendix 2 – Amendments to Scheme of Delegation to Officers

Appendix 3 – Amendments to Financial Procedure Rules

Appendix 4 – Amendments to Council Procedure Rules

SECTION 3 – THE PORTFOLIO HOLDERS

- 3.1 The following Members have been appointed with responsibility for the portfolio set out below. No individual Member of the Cabinet, Leader or Portfolio Holder, may discharge executive functions without the authority of the Council. The authorisations that have been given are set out in paragraph 3.2 below. The procedure for decision making by an individual Member of Cabinet is set out in paragraph 22 of the Access to Information Procedure Rules'

Name of PortfolioName of Member
Councillor Beckett

Leader

(with responsibility for major projects, the Local Strategic Partnership/Local Area Agreement, economic development ~~the local economy and~~ & tourism, the Local Development Framework and Communications)

Deputy Leader and Portfolio Holder for Communities & Safety

(with responsibility for ~~Performance and Communications~~ Community Development, Public Health, Grants (across all areas, in liaison with relevant Portfolio Holders, and Community Safety)

Councillor Cooper
~~Hollingbery~~

Environment (with responsibility for Environment & Sustainability, Neighbourhood Wardens, Waste Management & Cleansing, Grounds Maintenance, Emergency Planning and Environmental Health), ~~Health and Safety~~

Councillor Pearson

Finance and Efficiency

(with responsibility for Finance, Efficiency, Estates and Revenues & Benefits)~~Resources~~

Councillor Allgood

Heritage, Culture and Sport

(with responsibility for Sport & Recreation, Heritage & Museums, and Arts & Culture)

Councillor Stallard

Housing

(with responsibility for Landlord Services & Strategic Housing)~~and Communities~~

Councillor Coates

Performance and Organisational Development

(with responsibility for Performance Management, Customer Service, Human Resources, Legal, Democratic Services and Information Technology)

Councillor GodfreyPlanning and Access

(with responsibility for Development Control, Building Control, Access & Infrastructure and Strategic Planning (along with the Leader on LDF matters))~~Transport~~

Councillor Wood

3.2 Scheme of Delegation to Portfolio Holders

The Leader

1. To act in the place of any portfolio holder having delegated authority under this Scheme.

Each Portfolio Holder

1. To incur expenditure or to make decisions in connection with the operation of services within the budget and policy framework approved by Council, other than on contract award, IT projects, or where a more specific delegation is granted in this scheme, subject to:
 - (a) in relation to individual matters where Cabinet has specifically authorised delegation to a portfolio holder up to a limit per project of £500,000 and
 - (b) in any other case up to £200,000
2. Determination of fees and charges for services within the budget and policy framework.
3. To approve relevant business plans designed to deliver the Council's policy framework within the agreed budget.
4. To authorise public consultation on strategies and policies within the budget and policy framework.
5. To comment on behalf of the Council on consultation papers issued by Government or any other public body.
6. To approve Equality and Diversity Service Reviews and Action Plans.
7. To approve the response to be taken to service action plans, external inspection reports, monitoring reports, scrutiny reports and post implementation reviews.

Portfolio Holder for Communities and Safety

In consultation with the Portfolio Holder for Heritage, Culture and Sport:

1. To authorise Community Chest grants in accordance with any policies approved by Cabinet up to a limit of £500 in any individual case.
2. To authorise any minor non-recurring or emergency grants (other than those approved under the Annual Revenue Grants Scheme) up to a limit of £10,000 in any individual case.
3. To agree Historic Building Grants up to a limit of £25,000 per project.

In consultation with the Portfolio Holder for Planning and Access:

4. To agree Environmental Improvement grants up to a limit of £25,000 per project.

5. To approve community transport scheme grants up to a limit of £5,000 per project.

Portfolio Holder for Culture, Heritage, Culture and Sport

None specific.

- ~~1.To authorise Community Chest grants in accordance with any policies approved by Cabinet up to a limit of £500 in any individual case.~~
- ~~2.To authorise any minor non-recurring or emergency grants (other than those approved under the Annual Revenue Grants Scheme) up to a limit of £10,000 in any individual case.~~
- ~~3.To agree Historic Building Grants up to a limit of £25,000 per project.~~

Portfolio Holder for Finance and EfficiencyResources

1. The acquisition (within the budget and policy framework approved by Council) or the disposal of any interest in land at best consideration for a sum not exceeding £400,000.
2. To authorise any lettings, lease renewals, rent reviews or licences (at best consideration) either by the Council or to the Council, in respect of which the rent or licence payment does not exceed £150,000 per annum, in the case of lease renewals, rent and licence fee reviews the limit of £150,000 relates to the payment sum prior to the transaction.
3. In relation to procurement contracts for works, goods, software or services up to a value of £1,000,000 or £200,000 per annum, whichever is the greater:
 - (i) Approval of price/quality evaluation criteria.
 - (ii) Approval of short-listing procedures, short-list selection and approved lists of contractors, including the authorisation of any departures from Contract Procedure Rules under Contract Procedure Rule 3.
 - (iii) Award of contract.
 - (iv) Approval of schemes under Financial Procedure Rule 6.4 – authority to release expenditure for capital schemes.
 - (v) Approval of final costs of capital schemes under Financial Procedure Rule 7.12.

Subject to there being appropriate budget provision, including appropriate virement.

Portfolio Holder for Housing and Communities

1. To authorise public consultation on the possible development of Housing Revenue Account land.
2. To authorise disposals of up to 10 vacant dwellings in any financial year, in accordance with approved policy and the Council's Housing Strategy.

3. To authorise the commitment of developers' contributions to support specific affordable housing schemes, subject to available resources.

Portfolio Holder for Planning and AccessTransport

1. To authorise comments on the Development Plan or Local Development Framework of other local authorities.

~~2. To agree Environmental Improvement grants up to a limit of £25,000 per project.~~

~~3.2. To agree the release of money from the Open Space Fund for individual projects, up to a limit of £100,000 per project.~~

~~4. To approve community transport scheme grants up to a limit of £5,000 per project.~~

~~5.3. Approval of draft Supplementary Planning Guidance and Supplementary Planning Documents for publication for public consultation, with the approval of the final Guidance/Document to be made by Cabinet or the Cabinet (Local Development Framework) Committee.~~

~~6.4. To authorise public consultation on proposed traffic regulation and parking orders.~~

~~7.5. To authorise the making of traffic regulation and parking orders except where:~~

- (a) a ward Councillor registers a request that the matter be not determined by the portfolio holder;
- (b) a parish council submits representations contrary to the officer recommendation;
- (c) Ten or more representations from separate addresses are received (and not withdrawn) which are contrary to the officer recommendation;

and in these cases the matter will be referred at the portfolio holder's discretion either to Cabinet, or to the Cabinet (Traffic and Parking) Committee for determination.

Portfolio Holder for Environment

None specific.

Portfolio Holder for Performance and Organisational Development

None specific.

SCHEME OF DELEGATION TO OFFICERS - PROPOSED AMENDMENTS

D HEAD OF PLANNING CONTROL

1. (Unless otherwise mentioned in this Scheme of Delegation) dDecisions on planning and listed building applications and notices under the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), except those where:

- (i) a Councillor registers a request by completing a standard form setting out material planning reasons that a planning application be referred to Committee and that the form be attached to the committee report;
- (ii) a Parish Council submits issues to the Head of Planning Control of sufficient justification in their representation;
- (iii) the Head of Planning Control considers the application to be for significant development and intends to grant planning permission for the application;
- (iv) six or more representations, which the Head of Planning Control considers relate to material planning considerations, are received from separate individual addresses which are contrary to the officer's recommendations;
- (v) any planning applications submitted by or on behalf of a Member or Officer of the Council which they have notified to the Head of Planning Control and Corporate Director (Governance).

....

9. Decisions (in consultation with the Chairman or Vice-Chairman of the Planning Development Control Committee and local Member(s) on:

(a) the following matters where required urgently in connection with a pending hearing of an appeal:

- (i) The entering into of Section 106 agreements;
- (ii) The revised form of a planning permission; ~~required as a matter of urgency in connection with a pending hearing of an appeal, in consultation with the Chairman or Vice-Chairman of the Planning Development Control Committee and local Member(s).~~

(b) the variation of a Section 52 or 106 agreement where in the opinion of the Head of Planning Control the variation is not significant.

FINANCIAL PROCEDURE RULES – PROPOSED AMENDMENTS

Paragraph 8.4

- 8.4 Contracts for Construction Industry related work (including construction, maintenance and renovation works) may only be issued to companies or individuals who are registered for the Construction Industry Scheme (CIS) with the HM Revenue & Customs (HMRC) hold a valid Construction Industry Scheme (CIS) Certificate issued by the Inland Revenue.

Paragraph 11.6

- 11.6 Each Director shall be responsible for ensuring recovery of all debts in respect of services within his/her control including being alert to the risk of potential bad or doubtful debtors.

Paragraph 11.7

- 11.7 Writing off debts due to the Council shall be authorised as follows on the recommendation of the appropriate Head of Division and after consultation with the Head of Organisational Development where such debts arise from the operation of the Council's employment policies:

- a) Amounts up to £10,000 in respect of council tax, business rates, housing benefit overpayments and sundry debts by the Head of Revenues.
- b) Amounts up to £10,000 in respect of dwelling and garage rents, housing service and support charges and tenancy related recharges by the Head of Landlord Services.
- b)c) Amounts up to £10,000 by the Head of Finance.
- e)d) Amounts in excess of £10,000 and up to £25,000 by the Head of Finance in consultation with the Chairman of the Cabinet or the Portfolio Holder for Finance and Resources.
- d)e) Amounts in excess of £25,000 and up to £250,000 by the Cabinet.
- e)f) Amounts in excess of £250,000 by the Council.

Insert New Paragraph 18.2 (and renumber subsequent paragraphs)

- 18.2 HMRC requirements for work that falls within the Construction Industry Scheme must be complied with before contractors are engaged.

Insert New Paragraph 19.4 (and renumber subsequent paragraphs)

- 19.4 Payments made to contractors under the Construction Industry Scheme must be verified in accordance with HMRC requirements.

PART 4 - COUNCIL PROCEDURE RULES**Proposed Amendments to Council Procedure Rule 14****14. QUESTIONS****On a referred Committee minute**

- (1) A member of the Council may ask the Chairman of the Cabinet or of a Committee any question upon any referred minute of the Cabinet or of the Committee when that minute is under consideration by the Council.

Following due notice

- ~~(2) (a) A member of the Council may ask the Chairman of the Cabinet or of any Committee any question upon any delegated minute of a Committee provided that notice of the question (specifying it) shall be delivered to the Corporate Director (Governance) by 5pm on the Tuesday immediately preceding the Council meeting on the Wednesday at which the question is to be put (or the same timescale in working days should the Council meet on another day). If a question is asked of the Chairman of the Cabinet, he/she may refer it for answer to another member of the Cabinet who has been allocated a portfolio of responsibility in relation to any function or area of activity to which the subject matter of the question is relevant.~~

- (2) (b) A member of the Council may ask the Mayor, or the Chairman of the Cabinet or of any Committee any question relating to the business of the Council or on any matter in relation to which the Council has powers or duties or which affects the District, which is not capable of being dealt with under paragraph (1) or ~~(2)(a)~~ hereof. If a question is asked of the Mayor or Chairman of the Cabinet, he/she may refer it for answer to another member of the Cabinet who has been allocated a portfolio of responsibility in relation to any function or area of activity to which the subject matter of the question is relevant.

Provided that the question has been submitted in writing to the Corporate Director (Governance) by 10am on the Monday immediately preceding the Council meeting on the Wednesday at which the question is to be put (or the same timescale in working days should the Council meet on another day);

Urgent Business

- (3) A member of the Council may, with the permission of the Mayor, put to him/her or to the Chairman of the Cabinet or of any Committee, any question relating to urgent business, of which such notice could not have been given; but a copy of such question shall, if possible, be sent to the Corporate Director (Governance) not later than 10am on the day of the meeting.

General

- (4) Every question and answer submitted under ~~2(a) or (b)~~ above shall be produced in written form and laid in the place of each Member of the Council in the Council Chamber, no later than 15 minutes before commencement of the meeting.

- (5) Any member of the Council may, without notice, ask orally supplementary questions provided they are relevant to the subject matter of the original question.
- (6) The time occupied by supplementary questions and the answers thereto shall not exceed 30 minutes.

Proposed Changes to Council Procedure Rule 37

37. INTERESTS OF MEMBERS UNDER THE MODEL CODE OF CONDUCT

(1) If any Member has a personal interest in a matter coming before a meeting, this must be declared before the matter is discussed, whether or not it appears on the Member's Register of Interests form. If an interest arises solely from membership of a body exercising functions of a public nature, or from a body to which the Member was appointed by the Council, he/she need only declare that interest if any when he/she speaks on that matter. However, if there is a clear conflict of interest between the Council and the body concerned (or any other issue of a prejudicial nature), he/she should take the appropriate action as set out below.

~~(1)(2)~~ If any member has a personal interest or personal and prejudicial interest in a matter coming before a meeting, they must declare this before the matter is discussed. ~~and does not wish to leave the room~~ If the matter comes within one of the exempt categories of decision and the matter does not affect every member (eg council house tenancy, individual members allowance), the member shall give details of the interest and explain why he/she is entitled to remain under the Model Code of Conduct. The Corporate Director (Governance) shall record such reasons in the minutes.

~~(2)(3)~~ If (2) above does not apply, the member declares a personal and prejudicial the member must state the nature of that interest, and leaves the room immediately unless entitled to stay under paras 37 (4) (a) - (d) (below). ~~;~~ The Corporate Director (Governance) shall make a record in the minutes, but in this instance, there is no requirement for the member to give specific details of the relevant interest.

~~(3)(4)~~ Any declaration of a personal and prejudicial interest will automatically require the member to leave the meeting and the room unless:

(a) a dispensation has been obtained from the Standards Committee

~~(b)~~ it relates to participation at an overview and scrutiny committee ~~or joint or area committee and:~~

~~(i)~~ is not an interest of a financial nature, and

~~(ii)~~ to the extent that such committees are not exercising functions of the Council or of the Executive (Cabinet) and

~~(iii)~~ does not involveduring scrutiny of a decision made, or action taken by Cabinet or ~~one another~~ of the Council's committees or sub committees, or joint committees or joint sub committees, inef which he/she has been involvedis also a member, whereunless the member has been invited to that overview

and scrutiny committee for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

- (iv) the matter is under consideration by the meeting as part of the report or minutes of the Cabinet or a committee or sub committee (in the case of a meeting of Council) or of a Cabinet committee (in the case of Cabinet) or a sub committee (in the case of a committee) and is in each case not itself the subject of debate.

(e)(b) an satisfactory explanation has been given by the member as to reasons why he/she is entitled to remain under the Model Code of Conduct.

(c) the Council's procedures provide that public are allowed to attend and speak at a meeting, in which case a Member with a personal and prejudicial interest may make representations, answer questions or give evidence relating to the business, but must leave the meeting and the room immediately after, and not take any part in the debate.

(4)(5) This Procedure Rule shall apply to any member actually present in the meeting room while the interest is under consideration, whether as a member of the body or in some other capacity.

(5) Involvement in the affairs of another public body or voluntary association etc by a member who has been appointed as a representative of the Council shall not in the absence of any other relevant considerations (eg a clear conflict of interest between the Council and the body concerned) normally require the member to withdraw from the room. However, if the member decides to remain and participate, the nature of the interest shall be fully disclosed and recorded in the minutes.