

CABINET

19 March 2014

THE OVERVIEW AND SCRUTINY COMMITTEE

24 March 2014

GOVERNANCE REVIEW – FINANCIAL LIMITS IN THE CONSTITUTION

REPORT OF CHIEF OPERATING OFFICER

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RECENT REFERENCES:

CAB2512 – Outcome of the Council's Corporate Peer Challenge – 11 September 2013

CAB2546 – Proposed Grant Allocations – 12 February 2014

EXECUTIVE SUMMARY:

As part of the wider Governance Review, being undertaken to improve the decision-making processes within the Council, this Report considers a review of the principal financial limits in the Constitution. This follows recommendations arising from the Council's Corporate Peer Challenge that delegations should be reviewed.

The purpose of this review is to ensure that Members are fully involved in strategic and policy decisions, and that agendas of Cabinet and The Overview and Scrutiny Committee can focus on these issues.

Many of the principal financial limits relating to referrals to Cabinet, The Overview and Scrutiny Committee and Council have not changed since the introduction of the Cabinet system, following the Local Government Act 2000. These have been updated to more appropriate levels in Appendix 1.

Delegations to Cabinet Committees, and individual portfolio holders have increased in recent years – to streamline decision-making by reducing double-handling between different bodies within the Council. The systems still provide opportunity for Member input, but in a more efficient way.

Proposals for further changes are made in Appendices 2 and 3. These tie in with the proposals for changes to limits in Appendix 1.

The proposals also include some increased delegations to officers in more routine operational matters to improve efficiency.

The items identified for change have arisen from reviewing issues that have arisen recently where the need for a Member decision, or double handling between Committees, brought into question the current low level of some of the limits.

The proposals have been considered by the Electoral Review/Governance Informal Policy Group and the Chairman of The Overview and Scrutiny Committee has also been consulted.

A more detailed review of the Scheme of Delegation to Officers is also currently being undertaken.

RECOMMENDATIONS:

To Cabinet and Council:

- 1 That the changes to the Constitution as set out in Appendix 1, be approved.
- 2 That the Chief Operating Officer be given delegated authority to make any further minor consequential changes to the Constitution to give effect to the changes outlined in Appendix 1.

To Cabinet:

- 3 That the updated Schemes of Delegation to Portfolio Holders (Appendix 2), Cabinet Housing (Committee) and Head of Estates (Appendix 3), be approved.

To The Overview and Scrutiny Committee:

- 4 That the Committee raises with the Leader or Portfolio Holder for Finance and Organisational Development any issues arising from this report and considers whether any items of significance need to be drawn to the attention of Cabinet or Council.

OTHER CONSIDERATIONS:

1 COMMUNITY STRATEGY AND PORTFOLIO HOLDER PLANS (RELEVANCE TO):

- 1.1 An Efficient and Effective Council - the review a part of the Council's wider Governance Review – to ensure that's its arrangements are up-to-date and fit for purpose.

2 RESOURCE IMPLICATIONS:

- 2.1 None directly – However, streamlining the decision-making arrangements, while maintaining Member involvement in an appropriate manner, will improve the efficient working of the Council at both Member and officer level. This recognises the need to maximise the use of remaining resources following the continuing budget constraints.

3 RISK MANAGEMENT ISSUES

- 3.1 The Council's scrutiny arrangements and the Portfolio Decision-making Scheme upward referral system to Cabinet, both provide checks and balances within the system. The changes recognise the fact that a number of the principal financial limits have not changed since the introduction of the Cabinet system following the Local Government Act 2000.

BACKGROUND DOCUMENTS:

[The Council's Constitution](#)

APPENDICES:

Appendix 1 - Review of Financial Limits in the Constitution – Requiring Council Approval

Appendix 2 - Review of Financial Limits in the Portfolio Holder Decision-Making Scheme – Requiring Approval of the Leader or Cabinet

Appendix 3 - Review of Financial Limits in the Cabinet Committees and Officer Scheme of Delegation – Requiring the Approval of the Leader or Cabinet

Review of Financial Limits in the Constitution – Requiring Council Approval

	Principal References in Constitution	Existing Provision	Proposal
	Part 2 - Articles		
1	Article 4.04 and Financial Procedure Rule 7.9	Capital Carry forward over £1.5m – to Council	No change
2	Article 4.04 and Financial Procedure Rule 7.9	Revenue Carry forward over £0.5m – to Council	No change
3	Article 4.04 and Financial Procedure Rules 7.2, 7.3 and 7.4	Supplementary capital or revenue estimate; or virement exceeding £100,000 – to Council	Raise Cabinet authorisation limit up to £0.5m
4	Article 13.03 9a) and Rule 12, Part 4 – Access to Information Rules	Key Decision – A significant matter affecting two or more wards – or a budget impact above £100k	Raise budget impact to £200k
5	Article 14.04	Contract exceeding £5k to be in writing and to be signed by a t least two officers – or made under seal	Raise £5k to £10k – current statutory limit.
	Part 4 – Budget and Policy Framework Rules		
6	Para 3.1 and 5	There is a cross reference to the Financial Procedure Rules relating to the virement procedure for in-year adjustments in the Budget Framework.	This cross reference should be extended to the other changes permitted in the Financial Procedure Rules, to

			include supplementary estimates and carry forward procedures
	Part 4 – Overview and Scrutiny Procedure Rules		
7	Para 24 and Appendix A – para 8	This provides a right of call-in for supplementary estimates, virements or and prior commitment of a future year's budget over £50K	Raise call-in limit to over £100k
8	Para 24. See also Financial Procedure Rules 7.2, 7.3 and 7.4	The Rules do not include a specific reference to the current practice of applying the call-in Rule to disposals of land at an under value of over £50k	Include this provision in the call-in Rule with the current threshold – undervalue over £50k
	Part 4 – Financial Procedure Rules		
9	Rule 6.4	Release of capital schemes – current Rules require sign off by Cabinet or Portfolio Holder Decision Notice for all schemes included in Capital Programme, of <u>any</u> value.	Should add approved by Cabinet “ or under the portfolio holder decision making scheme”
			Add a de-minimis provision to give delegated powers to the Chief Finance Officer to authorise release of schemes up to £100k
		£100k plus limit for full financial appraisal requirement.	Retain existing limit
	See also Town Forum	£up to £50k – delegation to Winchester Town Form	Retain existing limit

	4.10(vi)		
10	Rule 7.4	Chief Finance Officer delegated virement limit up to £25k per year per Division	Update to up to £50k per Team
11	Rule 7.10	Prior Commitment of a future years budget – Council over £100k and O and S over £50K.	Raise Cabinet authorisation limit up to £250k, subject to O and S call-in at over £100k.
12	Rule 11.7	Write-off of debts (a) Up to £10k – by CFO, AD(CHO), or HR for various categories (b) £10k - £25k – CFO in consultation with Leader or portfolio holder (c) £25k to £250k – by Cabinet (d) Amounts over £250k – by Council	Raise £25k limits to £50k
	Part 4 – Contract Procedure Rules		
13	Rules 9.1d) and 2.4	The Rules and limits were subject to major review in 2010 so it is not proposed to review all those limits again. However, there is one area where a low limit has caused the need to obtain approvals which could be considered for possible review. The Rules require a Member decision (Cabinet or PHD, as appropriate) to be made if an evaluation model is used which is not just lowest price – which is over £100k, or any value where the quality element is more than 40%.	Update Officer delegated level from £100k to £250k – but no change to requirement for Member decision where the quality element is more than 40%.

Review of Financial Limits in the Portfolio Holder Decision-Making Scheme –
Requiring Approval of the Leader or Cabinet

Proposed changes are shown in tracking

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, or Portfolio Holder, may discharge executive functions without the authority of the Leader. 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.

Councillor	Portfolio (title in Bold)
Cllr Keith Wood	Leader <i>With responsibility for Corporate Policy; Corporate Communications; Major Projects and New Homes Delivery.</i>
Cllr Rob Humby	Deputy Leader with Portfolio for Economic Development <i>With responsibility for Economy & Arts; Tourism; Museums; Community Grants; and Sport & Physical Activity.</i>
Cllr Tony Coates	Housing <i>With responsibility for Housing Services and Health & Wellbeing.</i>
Cllr Stephen Godfrey	Finance & Organisational Development <i>With responsibility for Financial Services; IMT Services; Organisational Development and Revenues & Benefits.</i>
Cllr Stephen Miller	Business Services <i>With responsibility for Legal Services; Estates; Guildhall; Business Management; and Democratic Services.</i>
Cllr Jan Warwick	Neighbourhoods & Environment <i>With responsibility for Environmental Health; Environmental Contract; Street Care & Drainage; Landscape & Open Spaces; Community Safety & Neighbourhood Wardens; Parking; and Licensing.</i>

<p>Cllr Victoria Weston</p>	<p>Built Environment <i>With responsibility for Development Management; Strategic Planning; Historic Environment; Building Control; and Traffic, Transport & Engineering.</i></p>
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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.
2. To authorise public consultation on the possible development of Housing Revenue Account land.
3. To authorise the commitment of developers' contributions to support specific affordable housing schemes, subject to available resources.

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 the Leader or Cabinet has specifically authorised delegation to a portfolio holder up to a limit per project ~~of £500,000~~ determined in the delegation and
 - (b) in any other case up to ~~£200,000~~ £250,000.

This general delegation shall not apply where:

- (a) the Portfolio Holder has a more specific delegation under this Scheme, or
 - (b) In respect of granting approvals for procedural variations under the Contract Procedure Rules or approvals under the Financial Procedure Rules (as these are subject to the specific delegation to the Portfolio Holder for Finance and Organisational Development).
2. Determination of fees and charges for services within the budget and policy framework.

3. To approve relevant ~~Change Plans~~ in-year changes to Portfolio Holder 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 Business Services

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~~ £600,000.
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~~ £200,000 per annum, in the case of lease renewals, rent and licence fee reviews the limit of ~~£150,000~~ £200,000 relates to the payment sum prior to the transaction.

Portfolio Holder for Economic Development

- ~~1. To authorise Community Chest grants in accordance with any policies approved by Cabinet up to a limit of £500 in any individual case.~~
1. 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. To authorise any minor non-recurring or emergency grants (other than those approved under the annual Core Grants scheme) over £500 and up to a limit of £10,000 in any individual case. (Note: CAB2546 recommended this change to Cabinet on 12 February 2014 – and the change was approved)
- ~~2.~~ To approve community transport scheme grants up to a limit of £5,000 per project.

Portfolio Holder for Neighbourhoods and Environment

1. To agree the release of money from the Open Space Fund for individual projects, up to a limit of ~~£100,000~~ £250,000 per project.

2. To authorise public consultation on proposed parking orders.
3. To authorise the making of 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.
4. To agree Environmental Improvement grants up to a limit of £25,000 per project.

Portfolio Holder for Built Environment

1. To authorise public consultation on proposed traffic regulation orders.
2. To authorise the making of traffic regulation 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.

~~3. To agree Historic Building Grants up to a limit of £25,000 per project (Note: recommended for deletion as no longer in use)~~

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

5.4. 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.

Portfolio Holder for Finance and Organisational Development

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.
- (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 within the budget and policy framework approved by Council, including appropriate virement up to £50,000.

Portfolio Holder for Housing

1. To authorise disposals of up to 10 vacant dwellings in any financial year, in accordance with approved policy and the Council's Housing Strategy.

Review of Financial Limits in the Cabinet Committees and Officer Scheme of Delegation – Requiring the Approval of the Leader or Cabinet

Proposed changes are shown in tracking

A. Cabinet (Housing) Committee

The limits have been reviewed in the last year so are not proposed for change, except to tie in with the proposed changes to supplementary estimate/virement limits and scrutiny call-in limits proposed in Appendix 1.

Delegated Matters No 5

5. Exercising the powers of Cabinet under the Financial Procedure Rules to approve a capital or revenue virement or supplementary capital or revenue estimates up to ~~£100,000~~ £250,000 subject to the requirement to give The Overview and Scrutiny Committee the opportunity to call in any such approvals in excess of ~~£50,000~~ £100,000 (Note – virement is not appropriate where there will be savings in one Fund and additional costs incurred in another Fund e.g. between the General Fund and the Housing Revenue Account. Also, any requests for a supplementary estimate on the HRA will have implications for the HRA Business Plan and these matters will therefore need to be referred to Cabinet or Council as appropriate).

B. Head of Estates

1. Approval of terms of purchases, easements, disturbance claims and ex gratia payments (in respect of removals), where the consideration does not exceed ~~£25,000~~ £100,000 in any one case and where Cabinet or the Leader or Portfolio Holder for Business Services has agreed in principle to the transaction.
2. Disposals, the release or modification of covenants, and the grant of easements where the consideration does not exceed ~~£25,000~~ £100,000 in any one case provided that there is consultation with the appropriate Teams, the Ward Member(s), the Leader or the Portfolio Holder for Business Services).
3. Apportionment and settlement of well-maintained payments under the Housing Acts, ~~subject to agreement between both parties.~~
4. Lettings for fixed periods not exceeding a year (including continuing tenancies of a like nature terminable at will after the expiration of the initial term).

5. Any other lettings or licences in respect of which the rent does not exceed ~~£50,000~~ £100,000 per annum.

6. Any renewal of tenancy (including surrender and regrant) or licence or rent review in respect of which the rent does not prior to the transaction exceed ~~£50,000~~ £100,000.

No change to remaining delegations ~~7 to 13~~.