

CABINET

12 September 2012

MAKING BEST USE OF PORTFOLIO HOLDER DECISION NOTICES

REPORT OF CHIEF EXECUTIVE & CORPORATE DIRECTOR (GOVERNANCE)

Contact Officer: Simon Eden/Stephen Whetnall Tel No: 01962 848313

RECENT REFERENCES:

None.

EXECUTIVE SUMMARY:

Cabinet have asked officers to review the Council's decision-making procedures with a view to reducing the number and size of reports which are put before committees. As part of that review, this report makes recommendations concerning the use of the Portfolio Holder Decision Making procedure.

The Council's Constitution provides for certain decisions to be made through preparation and publication of a Portfolio Holder Decision Notice (PHDN). The Council's Scheme of Delegation to Portfolio Holders, itself agreed under a PHDN, provides a framework of matters which may be covered under the PHDN procedure.

This report concludes that the PHDN procedure already offers a good deal of flexibility for a number of matters currently brought to Cabinet to be agreed through this route. It would, however, be worthwhile reviewing existing financial and other thresholds set by the Scheme of Delegation and Procedure Rules to see if changes were appropriate.

It is for officers and Members to ensure that full use is made of the procedure, and to ensure acceptance of different means of decision-making and conveying information. However, in doing so it is important that careful thought is given to both raising awareness amongst Members and the public of the use of the procedure, and that robust arrangements are made to publicise such decisions.

The report also considers alternative arrangements for dealing with matters brought to Cabinet to provide information, or which could be considered by other bodies.

RECOMMENDATIONS:

- 1 That Cabinet:
 - a) agree that the Chief Executive and Corporate Director (Governance) review, with the Leader and other senior Members, the Scheme of Delegation to Portfolio Holders and advise Cabinet whether any changes would be appropriate;
 - b) encourage individual Portfolio Holders, in discussion with relevant officers, to consider whether matters can be considered through the Portfolio Holder Decision Notice procedure, or, where no decision is involved, communicated to interested parties other than through a report to Cabinet;
 - c) invite the Chief Executive and Corporate Director (Governance) to review the delegations to other bodies, notably Personnel Committee, to consider whether they could deal with matters currently referred by them to Cabinet; and
 - d) delegate to the Chief Executive, in consultation with the Leader and Corporate Director (Governance), arrangements for raising Member and public awareness of the PHDN procedure and its outcomes, and for communicating other information currently reported through Cabinet.

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DETAIL:

1 Introduction

- 1.1 Cabinet have expressed concern that they are having to deal with increasing numbers of reports, with many of them being very long. Such reports can be time-consuming to produce and read, and Cabinet are concerned that our decision-making process is becoming too cumbersome. They therefore asked officers to review the way in which the Council makes decisions with a view to reducing the number and size of reports which are put before all of the committees. As part of that review, this report makes recommendations concerning the use of the Portfolio Holder Decision Making procedure.
- 1.2 It is a central part of the democratic process that any decision – agreement to a course of action by the Council which may entail a commitment of public money or otherwise have a significant public impact – should be taken in an open and transparent way. There should also be a clearly articulated rationale for and a robust audit trail of evidence to support that decision. Whilst our procedures should be straightforward and avoid excessively complex process or burdensome paperwork, they must respect these principles. This report is prepared with that in mind.
- 1.3 The Council's Constitution provides for certain decisions to be made through preparation and publication of a Portfolio Holder Decision Notice (PHDN). A PHDN gives a short presentation of the salient points of a decision, and is published in draft to allow comment by Members and other interested parties. Should five or more Members so request, the Leader may pass the matter to Cabinet for decision. Otherwise, the relevant Portfolio Holder signs the Notice and the decision is published.
- 1.4 The Council's Scheme of Delegation to Portfolio Holders, itself agreed under a PHDN, provides a framework of matters which may be covered under the PHDN procedure – a copy of the latest scheme is attached at Appendix 1. Since the procedure was introduced in 2006/07 its use has been fairly consistent (71 PHDNs agreed in 2007/08, 57 in 2009/10 and in 2011/12) – many PHDNs are to approve routine business such as corporate Business Plans or Traffic Regulation Orders.
- 1.5 In recent years the Council has introduced Cabinet Committees which have authority to take certain decisions. There are currently four such committees:

Local Development Framework, Traffic & Parking, Housing, and Housing Delivery. These provide another option for decisions to be taken other than at Cabinet.

- 1.6 Our current practices have built up over some years, in part reflecting the way Members feel most comfortable with receiving information and updates. If we are to make changes we must ensure that we can continue to meet the expectations of Members.

2 The Scheme of Delegation to Portfolio Holders

- 2.1 The Scheme of Delegation includes a general provision, in the absence of a more specific delegation, to enable each Portfolio Holder to take a decision which incurs expenditure up to £200,000, with a higher figure of £500,000 where Cabinet has authorised a specific delegation. Alongside this are authorisations in respect of fees and charges, consultation and approval of elements of the Council's performance management framework such as targets set by Change Plans. These are supported by specific delegations relevant to the business of each portfolio, some of which have lower or higher financial limits than the general delegation.

- 2.2 Overall, the Scheme gives flexibility for Portfolio Holders to take a wide range of decisions necessary to support the work of their portfolio. There are two aspects of the Scheme to consider: whether the current financial and other thresholds are appropriate for swift, robust decision-making, and whether the Scheme's provisions are used to their full extent.

- 2.3 There have been seven meetings of Cabinet since January 2012, which considered in total 85 reports (including reported minutes). A review of the agendas suggests that matters covered by a significant number of those reports could in principle have been considered elsewhere through:

- a) reports being made to Cabinet Committees or other bodies such as The Overview & Scrutiny or Personnel Committees (subject, in some cases, to reviewing relevant terms of reference and Financial Procedure Rules);
- b) PHDNs;
- c) information being provided in another format to Members and the public (see section 3).

- 2.4 There are several reasons why those reports might have come to Cabinet. In some instances, for example, whilst the decision may be relatively minor, the current Scheme does not permit a Portfolio Holder to approve the spend in question. Others may have been provided primarily to update Members on matters concern to Members or because Cabinet Members wish to give a high profile to an initiative.

- 2.5 It is ultimately for the Leader and Portfolio Holders to judge whether they consider a matter merits debate at Cabinet when it could be considered in another forum, and so the ability to reduce the size of agendas lies in part with those Members. However, there is merit in reviewing the financial and other thresholds set by the Scheme to see whether further flexibility is appropriate.

3 Communication of Decisions and Information

- 3.1 Cabinet papers are sent electronically to all Members, and are available on our website. Hard copies are sent to Members on request (normally those who are likely to attend the meeting) and are available for the public at Cabinet meetings. It has been our practice for some time to see Cabinet as one way of conveying information about policy changes, performance or progress with projects to a wider audience, and Members in particular are accustomed to this. If certain matters are to be handled differently we will need to ensure that such decisions or updates remain accessible. This requires Members to be open to change in how they receive or access information.
- 3.2 PHDNs are circulated (electronically) to all Members in draft, and final versions are available on our website – with a link in the weekly Democratic Services update. However, some Members and other interested parties have yet to develop the habit of looking to the web for information, and so they may be unaware of the matters covered by Notices. The alternative channels for communicating information not in Cabinet reports or PHDNs, whether to Members or the public, are less well developed.
- 3.3 If we are to reduced the number of papers seen at Cabinet, then it is recommended that the Chief Executive, Corporate Director (Governance) and Head of Communications consider how best to develop other channels of communication, and in particular:
- a) improve the Council's website to give more ready access to 'news and update' items and decisions taken either at Cabinet or by Portfolio Holders;
 - b) agree with Members how best to enhance information provided through the Democratic Services Update;
 - c) consider mechanisms for providing updates on performance and other service matters on a portfolio-by-portfolio basis.

4 Recent Legislative Changes

- 4.1 On 23 August the Department for Communities and Local Government (DCLG) issued The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. These come into effect on 10 September 2012.

- 4.2 The Regulations make changes to the law relating to the circumstances when Cabinet has to meet in public to make a decision. However, the changes largely reflect current practice in Winchester as this Council has always exceeded the previous minimum legal requirements.
- 4.3 The current Forward Plan requirements have been abolished – but replaced with requirements for similar information to be published at least 28 clear (working) days before a decision is to be made. This will require earlier notice to be given of forthcoming decisions in some instances. More documents will also need to be published on the website. The detail is currently being assessed and will require changes to the Constitution and working practices.
- 4.4 Any changes to the Cabinet's wider decision-making processes will also have to take account of the new Regulations.

OTHER CONSIDERATIONS:

5 SUSTAINABLE COMMUNITY STRATEGY AND CHANGE PLANS (RELEVANCE TO):

- 5.1 We are striving to become an efficient and effective Council. Reducing paperwork and exploring better ways of handling decisions and communicating information can both enhance efficiency and make such information more accessible, enhancing transparency and openness.

6 RESOURCE IMPLICATIONS:

- 6.1 There are no immediate additional resource implications arising from the proposals to increase use of PHDS and to locally revise decision making processes, although as we develop new ways of communicating so that may have a modest impact on how resources are deployed. Requirements in the new Regulations to increase the number of documents published on the website will have an impact on officer time.

7 RISK MANAGEMENT ISSUES

- 7.1 In seeking to reduce the amount of material put before Cabinet meetings we need to avoid the risk that the transparency of the democratic process is compromised. The arrangements outlined are intended to ensure we develop more appropriate and effective ways of making information available to Members and the public.

BACKGROUND DOCUMENTS:

None.

APPENDICES:

Appendix 1: Extract from Portfolio Holder Decision Notice PHD410 – Delegation by Leader – Portfolio Holders

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; Financial Policy; Corporate Performance; Corporate Communications; and Major Projects.</i>
Cllr Rob Humby	Deputy Leader with Portfolio for Strategic Planning & Economic Development <i>With responsibility for Strategic Planning; Neighbourhood Planning; Economic Development; Tourism; and Estates.</i>
Cllr Tony Coates	Housing <i>With responsibility for Housing Services.</i>
Cllr Stephen Godfrey	Finance & Administration <i>With responsibility for Finance; Human Resources; Legal Services; IT Services; Customer Services & Business Support; Democratic Services; and Revenues & Benefits.</i>
Cllr Roger Huxstep	Environment <i>With responsibility for Environmental Health & Protection; Refuse Collection; Street Cleaning & Street Care; Landscape & Open Spaces; and Neighbourhood Wardens.</i>
Cllr Patricia Stallard	Communities, Culture & Sport <i>With responsibility for Arts & Culture; Community Grants; Community Development; Community Safety; Sports & Physical Activity (including Olympics); Health & Wellbeing; Museums and Guildhall.</i>

Cllr Ian Tait	New Homes Delivery <i>With responsibility for New Homes Delivery.</i>
Cllr Victoria Weston	Planning & Transport <i>With responsibility for Planning Management; Planning Enforcement; Historic Environment; Building Control; Transport Planning & Management; Parking Services; and Engineering Services.</i>

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 Change 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 Strategic Planning and Economic Development

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. To authorise comments on the Development Plan or Local Development Framework of other local authorities.
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 Communities, 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 approve community transport scheme grants up to a limit of £5,000 per project.

Portfolio Holder for Environment

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

Portfolio Holder for Planning and Transport

1. To authorise public consultation on proposed traffic regulation and parking orders.
2. 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.

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

Portfolio Holder for Finance and Administration

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.

Portfolio Holder for Housing

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

Portfolio Holder for New Homes Delivery

1. To authorise public consultation on the possible development of Housing Revenue Account land.
2. To authorise the commitment of developers' contributions to support specific affordable housing schemes, subject to available resources.