

Council Report



Report of Head of Legal and Democratic Services

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To: COUNCIL

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Agenda item no 10

Review of the council's constitution

Recommendations

That Council:

1. notes the Leader's proposed delegation to the head of planning to specify neighbourhood planning areas;
2. notes the Leader's revised scheme of delegation attached at appendix one to this report;
3. agrees the additional delegations to the head of health and housing set out in paragraph six of this report;
4. agrees the amendments set out in paragraph seven and appendix two to this report;
5. authorises the head of legal and democratic services to make the necessary changes to the council's constitution to reflect the changes set out in this report;
6. authorises the head of legal and democratic services to make any minor or consequential amendments to the constitution required for clarification, consistency and compliance with the council's style guide.

Purpose of report

1. To consider proposed amendments to the constitution.

Strategic objectives

2. The constitution underpins all of the council's areas of activities and, therefore, contributes to the achievement of all its strategic objectives.

Background

3. Officers are undertaking a review of the constitution with the aim of condensing and simplifying its content. This report sets out a number of proposed amendments that require a decision outside this review.

Leader's scheme of delegation

4. Attached at appendix 1 is a Leader's scheme of delegation for implementation from 1 November 2012. The document sets out the current arrangements and records the intention of the Leader of council to authorise Cabinet members to take any decision within their portfolio from 1 November 2012. This will not impact on the existing delegations to officers. The intention to increase the scope of delegations to Cabinet members facilitates more efficient decision making. Cabinet will retain the ability to take collective decisions on significant matters.

Neighbourhood plan areas

5. Section 116 of the Localism Act empowers local communities to take forward planning proposals at a local level. The Government enacted the Neighbourhood Planning Regulations on 6 April 2012. The regulations indicate that applications for neighbourhood areas should be published and that the application should specify the organisation or relevant body for the neighbourhood area. The Localism Act confirms that where a parish council exists they should be the relevant body. It also advises that the specified area should include the whole or any part of the area of the parish council. Currently Cabinet takes decisions on the designation of neighbourhood areas. Council is requested to note that the leader of council intends to authorise the head of planning to take such decisions from 1 November 2012. This would not prevent the waiving of the delegation and seeking a councillor decision in sensitive cases at Cabinet member or Cabinet level. Ward councillor(s) would continue to be consulted.

Management restructure - amendment to the council's constitution

6. At its meeting on 26 April 2012 Council agreed revised delegations to rationalise the split of duties between health and housing and legal and democratic services covering skin piercing, animal welfare, scrap metal and motor salvage operations and street trading. In making these changes to the constitution officers agreed that the delegations could be more specific. Officers therefore recommend the following additional delegations to the head of health and housing as follows:
 - *To exercise the council's powers and duties under The Dangerous Wild Animals Act 1976, The Pet Animals Act 1951, The Breeding of Dogs Acts 1973 & 1991, The Animal Boarding Establishments Acts 1964 &*

1970, The Zoo Licensing Act 1981 and The Riding Establishments Acts 1964 & 1970 including licensing and registration functions, taking of enforcement action, inspections, powers of entry and the appointment of inspectors.

- *To exercise the council's powers and duties under Scrap Metal Dealers Act 1964 and The Vehicle (Crime) Act 2001 including licensing and registration functions, taking of enforcement action, inspections, powers of entry and the appointment of inspectors.*

Revised executive arrangements

7. The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 came into force on 10 September 2012. The council already complies with a number of the proposals in terms of openness to the public, media and councillors not on the Cabinet. Officers have also introduced changes to reflect the new regulations that change the way councils produce forward plans and advertise forthcoming cabinet key decisions. There is no longer a requirement to publish a monthly forward plan although we intend to continue to publish the plan regularly. The forward plan is now called the cabinet work programme and lists forthcoming cabinet key decisions, cabinet member decisions, and any key decisions to be taken by an officer under delegated authority. These changes require changes to the wording of the constitution. Council is asked to authorise the head of legal and democratic services to make these changes.

Scheme of delegation and proper officer appointments

8. **Attached** at appendix 2 are proposed changes, with reasons, to the scheme of delegation and proper officer provisions.

Revised constitution

9. Council is requested to approve the changes set out in this report for implementation from 1 November 2012.

Financial Implications

10. The democratic services budget for printing will meet the costs of producing copies of the amended constitution.

Legal Implications

11. Section 37 of the Local Government Act 2000 requires the Council to keep its constitution under review.

Conclusion

12. This report sets out a number of proposals to amend the constitution. Officers recommend that Council supports these proposals, and authorises the head of legal and democratic services to make these changes and any further minor or consequential amendments to the constitution.

Background paper: None

Appendix one

South Oxfordshire District Council

SCHEME OF DELEGATION OF THE LEADER OF THE COUNCIL TO CABINET MEMBERS AND OFFICERS

Introduction

1. The Local Government Act 2000 provides that the leader may discharge any executive functions or may arrange for the discharge of any of those functions by the cabinet, by another member of the cabinet, by a committee of the cabinet or by an officer of the council.
2. This scheme of delegation to cabinet members and to officers is made pursuant to the Local Government Act 2000 and was approved by the leader of the council on 1 November 2012 and came into force immediately. This scheme replaces all previous schemes.
3. The scheme may be amended by the leader of the council at any time during the year. The scheme is subject to the general terms and conditions described below.

Terms and conditions

4. Any decision taken by a cabinet member under this scheme of delegation shall only be taken having regard to any advice from the strategic director responsible for the relevant function associated with the decision.
5. Any decision which could attract to the council adverse legal consequences shall be taken after consultation with the monitoring officer.
6. Any decision which could attract adverse financial implications shall be taken after consultation with the chief finance (section 151) officer.
7. Where functions may be discharged by a cabinet member under this scheme of delegation the cabinet member may arrange for the discharge of any of those functions by an officer of the council.
8. Any cabinet member exercising any delegated powers under this scheme also has the power to do anything which is calculated to facilitate or is conducive or incidental to the exercise of such delegated powers.
9. Once a cabinet member has exercised any delegated power under this scheme, he or she shall make a record of the decision which shall include the views of any officer consulted on the issue. The record of the decision shall be forwarded by the cabinet member or officer immediately to democratic services.

Responsibility for executive functions

10. The following cabinet members are responsible and are delegated authority to take decisions in respect of the functions and projects set out below until they are amended or withdrawn by the leader in writing.

Mrs Ducker - HR, customer services, legal and democratic, Didcot, corporate strategy (except waste and parks, community safety and grants)

Rev'd Paterson – deputy leader, planning (including building control) and IT

Mrs Badcock - health and housing

Mr Dodds - finance, waste and parks

Mrs Nimmo-Smith - economic development, property and technical services

Mr Service – leisure, grants and community safety

11. I delegate authority to the chief executive to discharge all executive functions and to request any member of the cabinet to act on behalf of the leader in the leader's and deputy leader's absence.

12. I delegate authority to officers to discharge executive functions as set out in schedule 1 of the scheme of delegation in part 3 of the constitution.

Councillor Ann Ducker

1 November 2012

Appendix two

Changes to the scheme of delegation and proper officer appointments

References in part 3 of the constitution – scheme of delegation	Proposal	Reason for proposing change
Page 155	Transfer delegation for maintenance and review of politically restricted posts from head of HR, IT and customer services to head of paid service.	In accordance with schedule 4 of the Localism Act.
Page 56 item 4	Replace “proposed street names/street name changes” with “proposed street name changes”.	The Oxfordshire Act 1985 requires a committee decision on name changes but not on new street names.
Delegation 1.11 page 113	Delete delegation.	Council no longer provides loans for cars.
Page 114 3.0 heading	Delete “closures” in heading.	Road closure function sits within remit of legal and democratic services.
Page 114 delegation 3.1	Replace “the naming or alteration of any street name provided it is unopposed” with “the naming of any street, or the alteration of any street name provided it is unopposed”.	Reflects wording of the Oxfordshire Act 1985.
Page 115 delegation 1.3	Transfer delegation to serve any high hedges remedial notice and authorise works to be carried out in default of compliance with such a notice to the head of planning in consultation with the head of legal and democratic services.	This delegation should sit with the head of planning as the department responsible for this area of work.
Page 161	Authorise Head of Legal & Democratic Services to approve dispersal orders.	Reflects correct allocation of officer responsibility.

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