

**OFFICER REPORT TO COUNCIL****AMENDMENTS TO THE SCHEME OF DELEGATION – THE EXERCISE OF EXECUTIVE FUNCTIONS****KEY ISSUE/DECISION:**

The Leader has agreed changes to the Council's Scheme of Delegation. In accordance with Articles 5.02 and 6.04(d)(ii) of the Council's Constitution, the changes made by the Leader are being reported to Council.

BACKGROUND:

1. The Leader is responsible for maintaining a list in Part 3 of the Constitution setting out who will exercise executive functions. Any changes to this list are required to be reported to the next appropriate meeting of the County Council.

Community Pride Fund

2. The Community Pride Fund enables mini-community projects such as the removal of unwanted signs, pollarding trees or enhancing highway visual appearance and minor works to local highway e.g. footway repair. The Fund enables Members to identify projects that deliver real improvements to their local area.
3. The Cabinet agreed on 30 November 2011 that Local Committees be given delegated authority to take decisions about the allocations from the Community Pride Fund. Following this decision, Local Committees decided that individual Members should exercise the delegation in relation to the budget for their divisions.
4. Following a review of the delegation in this area, the Leader has amended the Scheme of Delegation to reflect this delegation to the individual Member level (by virtue of Section 236 of the Local Government and Public Involvement Act 2007) and to clarify arrangements for allocating funding from this budget. These arrangements enable Local Committees to pool the money to be spent in the best locations across the borough should the local Members so wish.
5. The changes relate to the Community Pride Fund as follows:
 - Authority is delegated to individual Members to approve projects within their division to be funded by the Community Pride Fund.

- Where Members wish to combine their allocation to be spent in one or more divisions, authority is delegated to the Area Highway Manager in consultation with the relevant divisional Members.
 - All projects funded will be reported to the relevant Local Committee.
6. The terms of reference of the Local Committees in section 7.2 and officer delegations in Part 3 of the Constitution have been amended to reflect the above changes. A new section 7.4 has also been added to the Scheme of Delegation. This lists the Community Pride Fund as an area where local Members have executive powers.

Declaration of surplus in the budget of a school converting to an academy

7. The council has the power under the Academies Act to declare that any surplus remaining in a school's budget when it becomes an academy belongs to the authority. In practice the authority has pursued a cooperative approach to academies and has not used this power.
8. The Leader has amended the Scheme of Delegation to place this power under the powers delegated to the portfolio folder, rather than being reserved to the Leader of the Council as was the case previously.

Other amendments

9. General amendments have also been made to the Scheme of Delegation to reflect the recent revisions to Cabinet Member portfolios e.g. references to Deputy Leader in relation to financial issues have been amended to Leader and references to the Leader not being involved in decisions relating to adult social care have been removed.
10. Minor amendments have been included in section 8.2, Table 2 to more clearly reflect the existing requirements set out under the Financial Regulations section of the Constitution. These revisions include a reference, for clarity, to the Leader's authority to approve virements above £250,000 between portfolios or services (in consultation with the relevant portfolio holders).
11. Printed copies of the updated Scheme of Delegation pages will be circulated after the meeting to replace the existing copies in Members' Constitutions.

Delegation to LB Havering to enable the prosecution of an individual

12. On 16 November 2011 the Leader authorised a specific delegation to the Executive of the London Borough of Havering to enable the prosecution of a market trader (a resident of another county) in relation to the sale of counterfeit goods. Criminal proceedings instituted by the London Borough of Havering against this individual in relation to large quantities of counterfeit goods will be combined with a prosecution under the Trade Marks Act 1994 relating to an investigation carried out by Surrey County Council's Trading Standards Department in April 2010.
13. The trade in counterfeit products is a serious one as it damages the interests of legitimate businesses. Counterfeiters severely undermine the trade of very many smaller businesses, such as retailers and other market traders who trade legitimately and fairly, as well as the major brand holders and manufacturers. Rather than launch a separate prosecution in Surrey and tie up resources both

of the county council and the courts, the agreed delegation will enable Havering Council to add the Surrey offences to their own prosecution. This will ensure that the matter is pursued in an efficient and cost-effective manner.

14. The delegation has been formally set out in an Instrument of Delegation of Discharge of Functions to another Executive of another Local Authority and has been signed by the Leaders of both Surrey County Council and London Borough of Havering. This is a specific delegation in relation to the offences concerned and to the particular individual involved. It is therefore not required to include it within the list of ongoing delegated powers within the Scheme of Delegations.

RECOMMENDATION:

It is recommended that the amendments to the Scheme of Delegation in relation to executive functions agreed by the Leader as detailed above be noted.

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Sources/background papers:

The Council's Constitution
Email correspondence
Instrument of Delegation of Discharge of Functions to another Executive of another Local Authority
