



OFFICER REPORT TO COUNCIL

AMENDMENTS TO THE CONSTITUTION

KEY ISSUE/DECISION:

It is the Council's responsibility to approve changes to the Scheme of Delegation regarding non-executive functions, while amendments to executive functions are delegated to the Leader and are brought to County Council to note.

This report seeks Council's approval for changes to the Scheme of Delegation relating to section 106 agreements, Pensions functions and Rights of Way orders. The executive functions brought to Council for information in this report refer to revised decision making arrangements regarding youth services, changes to delegations on adopting roads and streets, and new delegations regarding local transport schemes. New Financial Regulations have also been prepared for Council's approval, proposing the amendment of approval thresholds for virements and changes to the review process for fees and charges.

These changes are brought to Council in accordance with Articles 4.10 and 5.02 of the Council's Constitution.

BACKGROUND:

1. Changes to any non-executive functions require approval by Council. Proposed changes are detailed in paragraphs 2-9 below. In addition, 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. Such changes, which have already been agreed by Cabinet, are set out in paragraphs 11-15 of this report.

FUNCTIONS FOR DECISION BY COUNCIL:

Section 106 Agreements – Proposed amendment to the Scheme of Delegation

2. Under the Town and Country Planning Act 1990, Section 106 agreements are entered into between councils and developers alongside a planning permission. This enables councils to secure contributions to services, infrastructure and amenities in order to mitigate the impacts of a proposed development upon the local infrastructure. Whilst the Community Infrastructure Levy will increasingly be used to secure contributions from future developments, section 106 agreements are still intended to be used for site-specific infrastructure.

Surrey County Council's role in section 106 agreements

3. Local planning authorities take the lead in negotiating planning obligations with developers. For most developments this will be the borough or district council. For some agreements the county council will be included as a party, in others representations are passed on by the county council to the borough/district for that council to include in its section 106 agreement. Within the county council the most relevant functions for these agreements are highways and transportation, education and libraries. Decisions on the nature of s106 obligations affecting the county council's infrastructure, and the level of any relevant contributions, are dealt with by officers in the relevant services. These are non-executive decisions that are delegated by the full Council.
4. There is specific provision in the scheme of delegation (P38) to the Planning and Development Group Manager and Transport Development Team Managers having responsibility to agree s106 agreements as regards highways works and transportation contributions. There are no similar provisions in the scheme relating to education and libraries service contributions. Although a general delegation to the relevant Strategic Director or Head of Service can be relied upon, these matters involve complex and urgent negotiations that need handling, often within tight timescales, by the relevant Senior Managers in the services and for this reason it is recommended that Council approves the following amendment to the Scheme of Delegation to ensure that Senior Managers can make such decisions without delaying the progress of the planning application:

SL28	Strategic Lead for School Commissioning	In connection with section 106 Town and Country Planning Act 1990, to approve the nature and value of contributions to be made by developers in relation to educational provision after consultation with the Head of Property where these include possible property transactions
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CS21	Libraries Operations Manager	In connection with section 106 Town and Country Planning Act 1990, to approve the nature and value of contributions to be made by developers in relation to libraries provision after consultation with the Head of Property where these include possible property transactions
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Pensions Functions – proposed changes to the Scheme of Delegation

5. The current Scheme of Delegation includes provision for the Pensions Manager to make decisions on behalf of the Council, both as employer and administering authority when required under the Local Government Pension Regulations, unless the matters are otherwise dealt with in policies agreed by the Pension Board. This is set out as follows:

H4	Pensions Manager	To exercise discretion (excluding decisions on admitted body status) in relation to the Local Government Pension Scheme where no policy on the matter has been agreed by the Council and included in the Discretionary Pension Policy Statement published by the Council, subject to any limitations imposed and confirmed in writing from time to time by the Chief Finance Officer.
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6. As a result of changes that have recently been implemented, the Pensions Manager post has been deleted and two new roles have been created:
- A Pensions Services Manager to manage the operational pensions services within the shared service.
 - A Senior Specialist Advisor in relation to the pension fund, advising on pension policy and on issues such as pensions admission agreements and other new employers joining the pension fund such as academies and bodies created as a result of new models of service delivery. This post will report into the Strategic Manager, Pensions & Treasury who has responsibility, together with the Director of Finance and the Surrey Pensions Fund Board for decisions taken which may impact the financial viability of the pension fund and as an administering authority for other employers.
7. Accordingly there is a need for the current delegation to be revised to reflect this new division of responsibilities, differentiating between individual case decisions from those that impact on the pension fund

itself. Admitted body status decisions will continue to be delegated to the Director of Finance who will also continue to have a power to limit the scope of this delegation at any time.

8. The proposed replacement delegations recommended for approval are therefore as follows:

F15	Strategic Manager, Pensions & Treasury	<p>To exercise discretion in relation to the Local Government Pension Scheme except</p> <p>(1) where a policy on the matter has been agreed by the Pension Board and included in the Discretionary Pension Policy Statement published by the Council,</p> <p>(2) decisions relating to “admitted body status” and</p> <p>(3) decisions relating to individual cases as provided for in the separate delegation to the Pensions Services Manager.</p> <p>This delegation is subject to any limitations imposed and confirmed in writing from time to time by the Director of Finance.</p>
SS1	Pensions Services Manager	<p>To exercise discretion in relation to the Local Government Pension Scheme on the following matters in individual cases:</p> <ul style="list-style-type: none"> - allocation of death grants - determining co-habitation - determining whether a child meets criteria for a child’s pension - allocation of pension for persons incapable of managing their own affairs - commutation, transfer in and forfeiture decisions - extension of time limits for decisions to be made by scheme members - minimum contribution levels for additional payments - determining reviews and effective dates of ill-health benefits -write offs up to £250 <p>This delegation is subject to any limitations imposed and confirmed in writing from time to time by the Director of Finance.</p>

9. An Internal Disputes Resolution process was approved in 2004 by the Audit and Governance Committee for dealing with appeals in relation to individual decisions on pensions. This provided for additional officers (now referred to in the legislation as adjudicators) to handle the stage 1 and stage 2 appeals. The posts identified at the time (the Executive Director of Performance and Resources, the Head of Legal Services, the Head of Foundation Planning and the Pensions Manager) have since been succeeded by other posts and it is important to clarify which current posts should be dealing with these matters. Accordingly the following delegation is recommended for approval:

F16	Director of Finance, Director of Legal and Democratic Services, Director of People and Development and the Strategic Manager Pensions and Treasury	Hear stage one or stage two appeals relating to disputes involving the Local Government Pension Scheme, Compensation Benefits and Injury Allowances provided that an officer hearing an appeal will not have been involved at an earlier stage in the process.
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Rights of Way orders – proposed changes to Scheme of Delegation

10. In June 2012 the Scheme of Delegation relating to rights of way orders was amended to enable officers to proceed to make orders where no significant objections were made, after consultation with various individuals. Inadvertently, in amending the scheme at that time, a provision that enabled officers to make orders where no objections were received at all was deleted. Council approval is sought for the proposed delegation set out below, which reinstates this original provision as well as updates the wording for the other delegation:

P49	Assistant Director Operations, Highways and Countryside Countryside Group Manager Countryside Access Team Manager	To process all Public Rights of Way Orders under the Highways Act 1980, Wildlife & Countryside Act 1981 and Countryside and Rights of Way Act 2000 and make and confirm such orders where no objection has been maintained or compensation is payable. To proceed to written representations, hearing or Inquiry where objections are maintained after an Order is made. Where no significant objection has been received or compensation is payable and after consultation with the Chairman of the relevant local committee, local member and Director of Legal and Democratic Services, to make all Public Rights of Way
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		Orders under the Highways Act 1980, Wildlife & Countryside Act 1981 and Countryside and Rights of Way Act 2000, which comply with national legislation and County policy. To proceed to written representations, hearing or Inquiry where objections are maintained after an Order is made.
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FUNCTIONS FOR REPORT TO COUNCIL

Delegation of decision making to Local Committees and Woking Joint Committee – Changes to the Scheme of Delegation approved by the Cabinet

11. The Cabinet has agreed a new model for delivering improved outcomes for Young People. Part of the model includes increased delegation to Local Committees in relation to Community Youth Work and the Surrey Outdoor Learning and Development (SOLD) offer to ensure resources meet local priorities for young people in the local area. The Cabinet has also agreed that Local Committees' existing scrutiny role will be extended to encompass Community Youth Work and the SOLD Local Offer. The Council is asked to note that the Scheme of Delegation in the Constitution will be amended to reflect these changes.

Policy for Adopting Roads and Streets as Highways Maintainable at Public Expense – Changes to the Scheme of Delegation approved by the Cabinet

12. To assist the County Council in fulfilling its future statutory function as Sustainable Drainage Approval Body under its role as the Lead Local Flood Authority, the Cabinet has approved changes in order to allow and encourage a greater number of roads and streets to be adopted under Section 38 of the Highways Act 1980.
13. Accordingly, the Cabinet has agreed that decisions on Section 38 Adoption and Instructions to enter into Section 38 Agreements, formerly delegated to the relevant Cabinet portfolio holder, should be delegated to specific postholders, namely the Group Planning and Development and Transport Development Planning East and West Managers. In addition, the Cabinet advised that officers should establish a process for advising Local Committees of those decisions. The Council is requested to note that the Scheme of Delegation will be amended accordingly.

Supporting Economic Growth through Investment in Highways Infrastructure – Changes to the Scheme of Delegation approved by the Cabinet

14. In their Strategic Economic Plans (SEPs), the two Local Enterprise Partnerships (LEPs) covering Surrey, Enterprise M3 (EM3) and Coast to Capital (C2C), set out their proposals for supporting economic development in their areas. The county council has worked with them to develop these plans, which include improvements to transport infrastructure to provide economic benefits. Funding for the schemes included in the SEP comes from the Local Growth Fund, and the arrangements require a local contribution to be made to the cost for the transport schemes.
15. The county council is now required to confirm the local contribution towards the cost of the first tranche of transport schemes, which are due to start in 2015/16. The Cabinet has agreed that authority be delegated within the limits set out in the Constitution, to the Strategic Director for Environment and Infrastructure, in consultation with the Deputy Leader, Cabinet Members for Highways, Transport and Flooding and the Director of Finance, to agree the precise amount of the county council's contribution. The Council is asked to note that this delegation will be added to the Scheme of Delegation to Officers.

Financial Regulations – proposed adoption of revised regulations – for approval by Council

16. The current Financial Regulations were approved by Council in March 2014. Since then, anomalies have been identified, which the proposed amendments seek to rectify. These include changes to the approval thresholds for commitments, for both revenue and capital, in order to bring the lower approval level in line with the key decision threshold of £500,000 and to bring the approval required for differed commitments in line with Cabinet portfolios. In addition, changes are requested to ensure that all fees and charges are reviewed annually by services and that more fundamental reviews of fees and charges take place on a cyclical basis.
17. A number of changes have also been introduced at the county council that affect the content of the Regulations, such as the new networks, new reporting lines and changes to job titles. These changes are reflected in the amended version of the Regulations, attached at Annex A, which Council is invited to approve.
18. Printed copies of the updated Scheme of Delegation pages and Financial Regulations will be circulated to replace the existing copies in Members' Constitutions.

RECOMMENDATION:

It is recommended:

- a) that the County Council agrees to the relevant changes to its Constitution regarding:
 - i) the extension of delegations in relation to Section 106 agreements to Senior Managers in the School Commissioning and Libraries services;
 - ii) the new division of responsibilities regarding pensions functions and the Internal Disputes Resolution process;
 - iii) the reinstatement of the provision to enable officers to make rights of way orders where no significant objections are made and related updates to wording;
 - iv) revised Financial Regulations.

- b) that the amendments agreed by the Cabinet to the Scheme of Delegation be noted.

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Sources/background papers:

The Council's Constitution
