



OFFICER REPORT TO COUNCIL

CONSTITUTION UPDATE REPORT Financial governance amendments

KEY ISSUE/DECISION:

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

This report notes changes to the Scheme of Delegation (Cabinet and Officers) relating to fees and charges, academy balance transfers on conversion and the management of Trust Funds.

As a result of these changes to the scheme of delegation, Council are invited to approve the amendments to the Financial Regulations.

BACKGROUND:

1. A number of alterations to the Constitution, financial guidance and regulations have been identified as a result of a periodic review.

Fees and Charges

2. Income generation continues to play an increasingly important role in contributing to the council's financial resilience. Cabinet are responsible for approving changes in policy in relation to fees and charges and for approving new fees and charges and this will continue to be the case. There is however inconsistency within the Constitution in the approach to the annual approval of changes to existing fees and charges and this can create confusion, and potentially a loss of income. Further, the approval of changes to individual fees & charges does not necessarily lead to a review of policy and strategy, for example in terms of whether a particular discretionary service is delivered with or without subsidy.
3. The changes made to the Constitution are to delegate responsibility for changes to existing fees and charges to officers. This will reduce exceptions, ambiguity and improve consistency of the scheme of delegation, and provide the ability for officers to review on a more frequent basis if required. Amending the financial regulations will clarify the process by including how to get fees and charges approved and the process to follow. Cabinet will continue to be responsible for approving new fees and charges and for approving changes in policy, for example in relation to financial subsidy.

4. The Annex highlights the amendments to the Scheme of Delegation (Cabinet and Officers) and Financial Regulation 2.6 and 2.7.

Academy Balance transfers

5. The Cabinet Member for Schools, Skills and Educational Achievement currently has a delegation to approve academy conversion balances. However, there is no decision for the Cabinet Member to make as the Department for Education had regulations as to how the balance is calculated. Therefore, this is an administrative function rather than a policy decision and the Constitution has therefore been amended to remove this delegation.

Trust Funds representation and clarity

6. The Council is corporate trustee for a number of trust funds; which have come under the council's responsibility for various reasons, including those established for educational purposes. Changes have been made to the Constitution to clarify the arrangements and to ensure there is appropriate transparency. The changes recognise the different roles of policy and administration such that policy decisions, for example, in relation to spending, are delegated to the relevant Cabinet Member and administrative matters are delegated to the Director of Finance. These changes will be supported by guidance in the Financial Regulations.

RECOMMENDATION:

It is recommended that the County Council:

- (a) notes the changes to its Constitution regarding fees and charges, academy balances and trust funds.
- (b) approves the changes to the Financial Regulations regarding fees and charges

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Sources/background papers:

The Council's Constitution

Scheme of Delegation changes

- Part 3 Section 2 Table 2 (r) (Purple page 23) removed. The delegated responsibility should be with the Director of Finance as Department for Education Academy conversion regulations govern transfer of balances.
- Part 3 – Table 2 (purple page 24) remove the approval of the charge for reading groups
- Part 3 Section 2 Table (a8) – add the relevant Cabinet member take decisions on behalf of the Council for Trust Funds where the Council is corporate trustee, in accordance with any requirements in the Trust governing documents.

Who is responsible	Function	Limitation
	r) Determination of whether a school converting to an academy has a surplus and if so the amount under section 7 of the Academy Act 2010 [delete]	
	y) Approval of the introduction of : a log-in fee for library visitors ; a charge for reading groups requesting a set of books [delete]	
Any decisions relating to any corporate Trust funds must be taken by the relevant Cabinet member	(a8) take decisions on behalf of the Council for Trust Funds where the Council is corporate trustee, in accordance with any requirements in the Trust governing documents.	

Scheme of Delegation to Officers changes

- Part 3 – Section 3 7.9 (Purple page 34) Limitations on Officers scheme of delegation pertaining to approval of fees and charges should be amended

7.9 agree grant criteria or approve **new** fees and charges (except where specific delegations to officers have been made in Part 3 of the scheme of Delegation, or as a matter of urgency, in consultation with the appropriate Cabinet member or committee chairman, provided the decision is within Council policy and budget).

- Part 3 – Section 3 Part 3 Specific delegation of certain fees and charges are deleted ASC 6, CS21 and TS5 as amendment to limitations now make it a general delegation.
- Part 3 – Section 3 Part 3 Specific delegation to Director of Finance – add – set out and approve, in accordance with Department for Education Academy

- conversion regulations, school balances transferring to academies, with exception of forced conversions.
- Part 3 – Section 3 Part 3 Specific delegation to Director of Finance – add to manage any Trust Funds for which the Council is a corporate Trustee in accordance with any specific requirements in relevant Trust fund documents, including making any investment decisions.

No	Title of postholder	Functions delegated
F8a	Director of Finance Finance Manager Schools & Learning	To set out and approve, in accordance with Department for Education Academy conversion regulations, school balances transferring to academies, with exception of forced conversions.
F17	Director of Finance Strategic Finance Managers	to manage any Trust Funds for which the Council is a corporate Trustee in accordance with any specific requirements in relevant Trust fund documents, including making any investment decisions

Amending the Financial Regulations

- paragraphs 2.6 – 2.7 rewritten to explain the existing fees and charges process highlighting the overall fees and charges strategy of cost neutrality, that services require a fees and charges strategy and how this is communicated. Also the new fees and charges approval process.
- Financial Regulation 7 to include rules on managing Trust Funds by adding para 7.10 – 7.13.

Fees and Charges

- 2.6 Every year services must update and / or review their fees and charges with view to ensuring that discretionary services for which a fee or a charge is applicable are not provided at subsidy without a specific supporting policy decision. The individual fees and charges schedules will be published annually with the transparency information. Each fee or charge will be required to be reviewed in-depth periodically which must not exceed three years. The review will apply relevant direct and indirect costs to assess the cost neutrality of the charge. Cost neutrality should be aimed for by all services delivering discretionary activities for which a fee or a charge is applied. The level of any subsidy and other charge policies are combined into the fees and charges strategy for the service. This strategy should be part of the overall service strategies and communicated as part of the MTFP. Scrutiny Boards may review and challenge the fees and charges elements of the service strategies. The Director of Finance will provide appropriate support and guidance in the Financial management toolkit.
- 2.7 Any new charges or any changes in policy will need to follow the following approval process:
- When there is a change of service policy that could, depending on Legal’s advice, require a public consultation, a separate Cabinet paper proposing the new fee and charge is required. Any substantive change in policy in the application of the fee or charge, or in the level of subsidy (if relevant) will also require Cabinet approval.

- When there isn't a change of service policy, the service could choose to have a separate Cabinet report or include a request within the budget monitoring report recommending the new fee and charge.

Trust Funds

7.10 The Council, as corporate trustee for various Trust Funds, through its members and officers will ensure that the Council administers them in accordance with its legal responsibilities as a trustee, distinct and separate from its functions as a local authority and also in compliance with:

- the Chartered Institute of Public Finance and Accountancy (CIPFA) code of practice in treasury management, which governs pension funds, and
- any relevant Charities Commission guidance

to ensure that their provisions are appropriately implemented.

7.11 The Director of Finance will define and propose for agreement by the relevant Cabinet Member, an investment strategy, stating the policies, objectives and approach to risk management in relation to all trust funds where the Council is corporate trustee in keeping with the code's recommendations, and will monitor these throughout the year.

7.12 In relation to any trust fund for which the Council is corporate trustee, the Director of Finance will submit to the relevant Cabinet Member an annual outturn report on the financial position and any investment activity.

7.13 After undertaking proper professional advice, any buying and selling of investments (including any portfolio investment units) will be managed by the Director of Finance and other staff delegated by the Director.

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