

SURREY COUNTY COUNCIL

LEADER OF THE COUNCIL

DATE: 3 SEPTEMBER 2019

**LEAD OFFICER: LEIGH WHITEHOUSE, EXECUTIVE
DIRECTOR OF RESOURCES**



SUBJECT: UPDATES TO THE COUNCIL'S SCHEME OF DELEGATION

COMMUNITY VISION OUTCOME: Council

SUMMARY OF ISSUE:

The Council requires that its scheme of delegation (the 'scheme') is regularly reviewed and updated to ensure it can carry on its business efficiently and lawfully. The Council is also required to set a financial threshold for 'key decisions'. Various updates are being proposed in this report.

RECOMMENDATIONS:

It is recommended that:

1. The updated Legal Services Scheme of Delegation in Annex 1 is approved.
2. A further delegation to the Cabinet Member for All-Age Learning to approve the following policies and any subsequent changes to these:
 - a. Home to School Transport Policy 4-16 year olds 2019/20
 - b. Home to School/College Transport Policy for Surrey students of sixth form age – 2019/20
3. The delegation for taking decisions at the Shareholder and Investments Panel is expanded to the Executive Director of Resources as per Annex 2.
4. Increase the Council's financial 'key decision' threshold to £1,000,000 and approve the new capital programme delegations in Annex 3.
5. The updated Children, Families, Lifelong Learning and Culture Scheme of Delegation in Annex 4 is approved.
6. That the Director of Law and Governance be authorised to make the necessary changes to the Council's Scheme of Delegation and the Constitution be updated accordingly.

REASON FOR RECOMMENDATIONS:

The revised scheme sets out the Executive functions that are authorised to exercise the functions of the Council relating to their areas of responsibility and any changes to this are required to be approved by the Leader of the Council and reported to the Council.

The Council will benefit from a clear and unambiguous scheme in the carrying out its functions. The proposed updates are intended to ensure legal compliance following changes to the Council's staffing structures and follow best practice in the exercise of delegated powers.

DETAILS:

1. Each area being altered is set out below with explanatory information about the changes.

Legal Services Scheme of Delegation

2. Following the decision to take Legal Services out of Orbis Public Law, a review of the scheme was requested to ensure it meets the Council's needs. The revised scheme as set out in Annex 1 is the result of this exercise.
3. No major changes are proposed from the existing scheme and all delegations remain at the existing officer levels. The changes are as follows:
 - a. LDS5 was previously delegated under a Cabinet decision but was not codified into the scheme. It is now included for ease of reference.
 - b. LDS6-10 have been re-worded to provide greater clarity of the functions delegated.
 - c. A further delegation concerning the exercise of a proper officer function has been removed as it is covered elsewhere in the Constitution.

Home to School Transport Policies – delegation to Cabinet Member for All-Age Learning

4. At its meeting on 28 November 2017 the Cabinet approved a new travel assistance policy for children and young people with an education, health and care plan or statement of special educational needs, 0-25 years, and in doing so also approved a delegation allowing the Cabinet Member with responsibility for the education portfolio to approve any future changes to this policy.
5. As a result the following delegation was added to the Scheme of Delegation – Responsibility for Function, Section 2 – Responsibility for executive functions exercised by Cabinet Members, as listed by the Leader (outlined in Article 5.02 of the Constitution):

'To agree changes to the Travel Assistance Policy for Children and Young People with an Education Health and Care Plan (EHCP) or a Statement of Special Education Needs (SEN): 0-25 years'

6. Since this delegation was approved it has become clear that this policy should not be looked at in isolation and as a result a further delegation is requested to allow the Cabinet Member for All-Age Learning to approve changes to all School Transport Policies.

Delegation for Shareholder and Investments Panel

7. At the Leader decision meeting of 7 May 2019, a new delegation was put in place to the Director of Corporate Finance to chair and be the decision maker on the Shareholder and Investments Panel. To avoid any situation where decisions cannot be taken due to their absence, this delegation is proposed to be expanded to include the Executive Director of Resources as well. The amended delegation is included in Annex 2.
8. Minor clarifications to the delegated matters have also been made to ensure LLPs and properties within the Council's directly-owned investment portfolio are also overseen by the Panel.

Key decision threshold and capital programme

9. All local authorities must operate a system of taking "key decisions". For the Council, a key decision means an executive decision which is likely either –
 - a. to result in the Council incurring expenditure, or making of savings, with a value of £0.5m or over, and which are significant having regard to the budget for the service or function to which the decision relates; or
 - b. to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in the county.
10. The financial threshold is subject to discretion by each individual authority taking into account its own circumstances. Most county authorities have adopted either £500,000 or £1,000,000. Key decisions must be publically advertised and time periods before decisions can be taken adhered to.
11. As part of the Council's transformation programme, it is moving towards a more agile decision making process in a number of areas. Decisions are increasing required at pace and given the size of the Council it is reasonable to increase the financial threshold for key decisions to £1,000,000, in line with similar county authorities.
12. In addition, officers are subject to a limitation preventing them taking 'key decisions' in Paragraph 7.1 of Part 3, Section 3, Part 1 of the Council's constitution. The emerging governance model, including for the capital programme as set out below, allows officers to take decisions up to the £1,000,000 threshold. Therefore, the key decision threshold will need to be increased to allow for these changes.
13. Following the approval of the Asset and Place Strategy 2019-2030, the capital programme processes have been reviewed. Cabinet will have annual oversight of the capital programme through the MTFP and additionally for any new capital schemes in excess of £1,000,000 or variations to approved schemes in excess of £500,000. All other decisions concerning the capital programme are proposed for delegation to officers in line with the new delegations set out in Annex 3.

Children, Families, Lifelong Learning and Culture Directorate Scheme of Delegation

14. Following wholesale reorganisation of the Children's Services Directorate, including the integration of Libraries and Cultural Services, into a new

Children, Families, Lifelong Learning and Culture Directorate, the Scheme of Delegation for those areas required updating. The posts receiving delegations under the scheme have been updated to align with the new structure and some consequential amendments (for example splitting a delegation between two roles instead of one) have been made. No new functions are being delegated as a result of these updates. Full details of Children's Services procedures are contained in the Children's Services Procedure Manual.

CONSULTATION:

15. Changes to the Capital Programme Delegations (and consequently the key decision threshold) were discussed with the Cabinet Members at the Asset Strategy Board.
16. All relevant Directors have been consulted.

RISK MANAGEMENT AND IMPLICATIONS:

17. Maintaining an up to date and accurate scheme is important to ensuring delegated decisions are taken lawfully. Failure to maintain an appropriate scheme could result in decisions being successfully challenged and set aside.

FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

18. None.

SECTION 151 OFFICER COMMENTARY

19. The s151 officer is satisfied that the increase to the key decisions threshold is reasonable, in line with similar sized authorities and enables more agile decision making.
20. Changes to the capital processes are in line with the revised governance arrangements recently put in place for capital projects.
21. It is important to emphasise that it remains the responsibility of the Accountable Budget Holders to ensure that expenditure commitments are within the approved revenue budget envelope for their services or within the approved capital budget for capital expenditure.

LEGAL IMPLICATIONS – MONITORING OFFICER

22. The functions dealt with in this report are all executive functions. Under Section 9E of the Local Government Act 2000, the Leader of a local authority operating executive governance arrangements, such as the Council, may determine to whom executive functions are delegated. Functions may be delegated to a number of statutorily defined groups, including members of the executive or officers.
23. Legal implications for the change to the key decision threshold are as set out in the body of the report.

24. If the updates are approved, the Council's constitution will need to be updated to reflect the changes to the scheme of delegation and authority is sought to allow the Director of Law and Governance to make the amendments. A further report to full Council will be required to notify them of the revisions.

EQUALITIES AND DIVERSITY

25. None.

OTHER IMPLICATIONS:

26. None.

WHAT HAPPENS NEXT:

27. The Director of Law and Governance will make the necessary changes to the Constitution and present a report to the next meeting of the Council.

Contact Officer:

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Consulted:

Finance, Legal, Democratic, Property and CFLC Services

Annexes:

Annex 1 – Updated Legal Services Scheme of Delegation
 Annex 2 – Updated Finance Services Scheme of Delegation
 Annex 3 – Capital Programme Delegations
 Annex 4 – Updated CFLC Scheme of Delegation

Sources/background papers:

- Local Government Act 2000
 - Leader Decision Paper 7 May 2019
 - Cabinet Decision Paper 28 November 2017
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