



## 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.

The Leader has agreed changes to the Officer Scheme of Delegation at his decision making meeting on 3 September 2019 in the following areas:

- Children, Families, Lifelong Learning and Culture;
- Highways and Transportation;
- Finance;
- IT & Digital;
- Legal Services;
- Property

In accordance with Articles 5.02 and 6.05(d)(ii) of the Council's Constitution, the changes made by the Leader are being reported to Council.

This report also seeks Council's approval for the Council's financial 'key decision' threshold to be increased.

These changes are brought to Council in accordance with Articles 4.09 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 2-5 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 the Leader, are set out in paragraphs 6-13 of this report.

## **FUNCTIONS FOR DECISION BY COUNCIL:**

### **Increase the Council's financial 'key decision' threshold**

2. 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.
3. 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.
4. 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.
5. 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.

## **FUNCTIONS FOR REPORT TO COUNCIL**

At the Leader's decision making meeting on 3 September 2019, the following changes to the Scheme of Delegation were approved.

### **Legal Services Scheme of Delegation – changes to the Scheme of Delegation approved by the Leader**

7. 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.

### **Home to School Transport Policies – delegation to Cabinet Member for All-Age Learning – changes to the Scheme of Delegation approved by the Leader**

8. 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. The amended delegation is included in Annex 4.
9. 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 (SSEN): 0-25 years’*

10. 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 – changes to the Scheme of Delegation approved by the Leader**

11. 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.
12. 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.

### **Capital Programme – changes to the Scheme of Delegation approved by the Leader**

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.

<b>RECOMMENDATIONS:</b>
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It is recommended:

- a) that the County Council agrees to increase the Council's financial 'key decision' threshold to £1,000,000;
  - b) that the amendments agreed by the Leader to the Scheme of Delegation be noted.
  - c) 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.
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**Sources/background papers:**

The Council's Constitution

Leader's decision making meeting papers 3 September 2019