

Change to the Constitution – Delegation of Decision Making (Urgent Report)

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Purpose of the Report

1. In light of the coronavirus (COVID–19), a review of the Scheme of Delegation has been carried out to ensure that the Chief Executive (and Directors if the Chief Executive is not available) have sufficient powers to allow the business of the Council to continue to function as Council meetings are postponed on Government advice.
2. The Government has urged councils to continue with as much business as possible, including supporting vulnerable groups and ensuring that important functions that have an economic impact such as planning, licensing, building control and environmental health, continue to be delivered as close to normal as possible. To ensure that decisions can be made in the event of further meeting postponements, it is proposed that the Scheme of Delegation is amended and additional decision making is delegated to the Chief Executive and in the absence of the Chief Executive, by Directors.
3. This report is presented under Section 16 of the Access to Information Procedure Rules in Part 4 of the Council's Constitution, which says:-

16. Special Urgency

If by virtue of the date by which a decision must be taken Rule 15 (General Exception) cannot be followed, then the decision can only be taken if the chair of the body making the decision, obtains the agreement of the Chair of the Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Scrutiny Committee, or if the Chair of the Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice Chairman will suffice.

Public Interest

4. Part 3 of the Council's Constitution sets out who within the Council has the power to do what, sets out any associated limitations and, in particular, sets out which decisions can be taken by committees and which can be taken by officers.
5. The District Executive and Full Council have previously agreed to allocate certain executive and non-executive matters to others, and it is important that these changes are made clear on the face of the Constitution.
6. This report is seeking Council approval for the necessary constitutional changes to ensure the Council's decision-making processes continue to operate and are transparent and the Constitution is kept up-to-date.

Recommendations

7. That Council agree the following changes be made to the Council's Constitution:
 - a) To amend Part 3, Responsibility for Functions, Sections 3 and 4 of the Council's Constitution to allow delegated authority to the Chief Executive, and to the relevant Director in the Chief Executive's absence where not already delegated, to take Executive and Quasi-Judicial decisions in consultation with the Leader of the Council (or Deputy) and the relevant Portfolio Holder, Ward Member and Committee Member if practicable, if meetings of the relevant committee are unable to be held;
 - b) If legislation and technology allows, then enable Councillors to make decisions by remote, virtual meetings using available technology.
 - c) That delegated authority be given to the Monitoring Officer and Chief Executive to amend the Constitution to reflect any further changes that are required as a direct result of Government Legislation /Guidance resulting from the coronavirus (COVID-19) situation.
 - d) These changes in procedure will cease when the Government announces that the coronavirus (COVID-19) crisis is over and when normal meetings can resume.

Introduction

8. The Council's Constitution includes allocations of executive and non-executive functions and provides for delegations. In broad terms, the non-executive functions are strategic functions and responsibility for those functions resides with the Full Council. The vast majority of local authority functions are executive functions, and responsibility resides with the District Executive. Both Full Council and District Executive may then delegate powers onto committees, individual councillors, or officers. The current scheme of agreed delegations is set out in Part 3 of the Constitution (March 2018).

Report

9. In light of the Coronavirus (COVID – 19), and the Government's recent announcement to avoid unnecessary social contact to help prevent the spread of the virus, a number of SSDC decision making meetings have been postponed and may continue to be postponed in the future.
10. In the event of the Committees of the Council being unable to meet, decisions would, under the current Scheme of Delegation, have to be postponed leaving the Council unable to function appropriately.
11. A directive has been received from the Secretary of State that Councils should continue to progress as much Council business as possible during the period of coronavirus including services to vulnerable people and services that have an impact on the local economy. If primary legislation can be brought forward to allow Council's to make decisions by remote virtual meetings then the technology will be pursued.
12. To enable the decision making process to continue, it is proposed that Councillors continue to receive decision-making reports and submit their comments electronically. If technology permits then debate can take place via skype or zoom or some other teleconferencing

technology. However, the decision will be formally made by the Chief Executive (or relevant Director). This is because current legislation states that Councillors must be 'present and voting' to cast their vote on an Executive or Quasi-Judicial decision.

13. It is important that decisions on planning applications and Licensing applications continue to be made to help the local community and economy to continue to function.
14. It is important that the Scheme of Delegation is fit for purpose. In light of the coronavirus the need to amend the Scheme of delegation has been recognised, to ensure that the Council can continue to operate in the event of further meeting postponements.
15. Executive Portfolio Holders already have certain delegated decision making powers and these will continue to be used where appropriate with the usual call-in period.
16. The Chief Executive currently has the power under paragraph 4 of the Scheme of Delegation in Part 3, Section 6 of the Council's Constitution "To take urgent decisions as follows:
 - a) in relation to Executive matters in consultation with the Leader of the Council (or Deputy) and the relevant Portfolio Holder;
 - b) in relation to non-Executive matters in consultation with the Chairman (or Vice-Chairman) of Council or Chairman (or Vice-Chairman) of the relevant committee.
 - c) An urgent decision is one that is considered by the Chief Executive to be necessary to protect the interests of, or advancing the business of, the Council. All such action shall in all cases be reported to the next appropriate meeting of the Executive, Council or relevant Committee".
17. It is proposed to extend this delegation to all Executive and Quasi Judicial decisions listed in the Constitution to ensure that the Council can continue to operate in consultation with the Leader of the Council (or Deputy) and the relevant Portfolio Holder, Ward Member and Committee Member if practicable, if meetings of the relevant committee are unable to be held.

Financial Implications

18. There are no financial implications directly arising from this proposal.

Legal Implications

19. These are set out and/or referred to in the body of the report.

Carbon Emissions and Climate Change Implications

20. There are no specific environmental implications arising from the subject matter of this report.

Equalities and Diversity Impact

21. There are no specific equality or diversity implications arising from the subject matter of this report.

Background Papers

Council Constitution - Part 3