

Amendments to the Council's Constitution

Report of the Democracy and Governance Portfolio Holder

Recommended:

1. That the scheme of delegation to the Head of Finance and Revenues be amended as shown in Annex 1 to the report.
2. That the scheme of delegations to the Chief Executive be amended as shown in Annex 2 to the report.
3. That the scheme of delegation to the Head of Property and Asset Management be amended as shown in Annex 3 to the report.
4. That the scheme of delegation to the Head of Legal and Democratic Service be amended as shown in Annex 4 to the report.
5. That the amendments to the Contract Standing Orders made by the Head of Legal and Democratic Services under her delegation in consultation with the Democracy and Governance Portfolio Holder as set out in Annex 5 of the report, be noted.
6. That the scheme of delegation to Chief Executive, Deputy Chief Executive and Heads of Service be amended as shown in Annex 6 to the report.

SUMMARY:

- It is proposed that the scheme of delegation for officers be amended as set out in the report.

1 Introduction

- 1.1 The Council's Constitution underpins all of the Council's areas of activity. Ensuring it reflects current legislation and working practices is important.

2 Background

- 2.1 Since the Constitution's adoption, it has remained under review in accordance with Section 37 of the Local Government Act 2000.
- 2.2 A number of further changes are recommended in relation to the scheme of delegation to officers.

Head of Finance and Revenues

- 2.3 A number of proposed amendments to the scheme of delegations to officers for the Head of Finance and Revenues are proposed as detailed in Annex 1.
- 2.4 The proposed amendments seek to provide a more up-to-date scheme of delegations for the Head of Finance and Revenues; reflecting current practice and ensuring the delegations are efficient and effective.
- 2.5 It is proposed that the delegation currently within the Head of Finance and Resources '*To implement decisions regarding pay for staff*' is moved to the delegations to the Chief Executive where it is more appropriate for this delegation to sit. This proposed change can be seen in Annex 2 - scheme of delegations to the Chief Executive.

Head of Property and Asset Management

- 2.6 It is proposed that a new delegation be included for the Head of Property and Asset Management in order to allow a more efficient process for the issuing of temporary parking permits to third parties where require. The proposed addition can be seen in Annex 3 of the report.

Head of Legal and Democratic Services

- 2.7 It is proposed that a new delegation be included for the Head of Legal and Democratic Services that in consultation with the Democracy and Governance Portfolio Holder to make amendments to the calendar of meetings to ensure the efficient process for the democratic process. The proposed addition can be seen in Annex 4 of the report.

2.7.1 Elections

Electoral legislation requires the Borough to be divided into polling districts. These are usually based on the parish area (or a smaller area in the larger towns) comprising of up to around 2,500 electors. A "polling place" must be designated for each polling district, and when an election is called, the polling station is located within that polling place. In order to have greatest flexibility, Test Valley designates the whole polling district as the polling place, so that any available building in the polling district can be used.

Occasionally, the usual polling station building is not available for use at an election. Where an alternative building can be found in the polling district, that alternative will be used, but to cover the situation where no suitable building is available, it is proposed to extend the delegation of the Head of Legal and Democratic Services to designate a different polling place (e.g. the adjacent polling district) so that a building in an adjacent village can be used if the usual building is not available. The proposed addition can be seen in Annex 4 of the report.

2.7.2 Contract Standing Orders

The Head of Legal and Democratic Services under her delegation in consultation with the Democracy and Governance Portfolio Holder has made amendments to the Contract Standing Orders as set out in Annex 5 of the report.

2.8 Chief Executive, Deputy Chief Executive and Heads of Service

2.9 Decisions (at first instance and on review) on nomination for listing of Assets of Community Value under the Localism Act 2011 are currently carried out by the Chief Executive or Deputy Chief Executive with the benefit of legal advice. Historically, the decision was delegated to the Head of Administration (as was) and it is proposed that the scope of officers able to deal with these nominations and reviews of nominations is widened to ensure that decisions can be taken in good time.

2.10 It is proposed that authority to determine nominations and reviews is delegated to Heads of Service in addition to the Chief Executive and Deputy Chief Executive who will take those decisions with the benefit of legal advice. The proposed addition can be seen in Annex 6 of the report.

3 Corporate Objectives and Priorities

3.1 As set out in Article 14 of the Constitution the Monitoring Officer has a duty to monitor and review the operation of the Constitution and ensure that the aims and principles of the Constitution are effective.

3.2 Maintaining and improving the Constitution to reflect current legislation and the broader agenda of local government is essential in order to deliver effective and lawful decisions in the day to day implementation of the Corporate Plan.

4 Options

4.1 Options for Recommendations.

4.1.1 Option 1 is the recommended Option for the reasons set out in paragraph 2.2 above.

4.1.2 Option 2 is not to make the change recommended.

5 Option Appraisal

5.1 Option Appraisal

5.1.1 Option 1 is the recommended option and results in the scheme of delegations to officers in relation to the Head of Finance and Revenues, the Chief Executive the Head of Property and Asset Management and the Head of Legal and Democratic Services being updated to reflect current practice and ensure the efficient and effective management of Council services.

5.1.2 Option 2 is not recommended. Not approved the proposed changes would result in a less effective scheme of delegation to officers.

6 Risk Management

6.1 A Risk Management questionnaire has been completed and indicates this report does not require a risk assessment because the changes/issues covered by this report are not significant in terms of risk or have previously been considered.

7 Resource Implications

7.1 None

8 Legal Implications

8.1 Section 37 of the Local Government Act 2000 requires the Council to keep its Constitution under review. The lack of an up to date and effective Constitution could increase the risk of governance failures.

9 Equality Issues

9.1 An Equality Impact Assessment of the matters in this report is not required as no potential for unlawful discrimination and/or low level or minor negative impact have been identified.

10 Other Issues

10.1 Community Safety - none

10.2 Environmental Health Issues - none

10.3 Sustainability and Addressing a Changing Climate - none

10.4 Property Issues - none

10.5 Wards/Communities Affected - none

11 Conclusion and reasons for recommendation

11.1 The proposed changes to the Constitution will ensure that the Council is able to continue to operate in an effective and efficient manner.

11.2 In addition, the report sets out proposed changes to the scheme of delegations to officers for the reasons set out in the report.

Background Papers (Local Government Act 1972 Section 100D)

None

Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

No of Annexes:	5	File Ref:	N/A
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(Portfolio: Democracy and Governance) Councillor I Jeffrey

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Report to:	Council	Date:	16 November 2022
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