

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

1 OCTOBER 2009

REPORT OF
CORPORATE
MANAGEMENT TEAM

CABINET/COUNCIL DECISION/

Leader of the Council - Councillor Lupton
Corporate Management and Finance - Cabinet Member - Councillor Laing

CONSTITUTION

1. Summary

This report asks Cabinet to agree the updated Executive Functions delegations and to recommend them and the revised Constitution as a whole, to Council for approval.

2. Recommendations

It is recommended that:-

1. the updated Executive Functions delegations be agreed and endorsed by Council; and that
2. Council is asked to agree/note the remainder of the revised Constitution as whole, as appropriate.

3. Reasons for the Recommendations

To ensure that the Cabinet's and the Council's delegation schemes, and the Constitution as a whole, are up to date, accurate and reflect operational and legislative change.

4. Members Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

AGENDA ITEM

REPORT TO CABINET

1 OCTOBER 2009

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET/COUNCIL DECISION

**Leader of the Council - Councillor Lupton
Corporate Management and Finance – Lead Cabinet Member – Councillor Laing**

CONSTITUTION

SUMMARY

This report asks Cabinet to agree the updated Executive Functions delegations and to recommend them and the revised Constitution as a whole, to Council for approval.

RECOMMENDATIONS

It is recommended that:-

1. the updated Executive Functions delegations be agreed and endorsed by Council; and that
2. Council is asked to agree/note the remainder of the revised Constitution as whole, as appropriate.

DETAIL

1. The Constitution has been reviewed and updated since it was last republished (October 2008).
2. The changes have been highlighted in the current version of the Constitution and brought specifically to Members' and Officers' attention.
3. Details of the main amendments are show at the **Appendix** to the report, which indicates whether or not approval is required to the changes concerned. As can be seen from this, most of the revisions reflect previous Cabinet/Council decisions or legislative changes that have occurred. Amendments arising from a Constitutional Arrangements report to the Members Advisory Panel on 14 September are also included.
4. Cabinet is asked to agree the updated Executive Functions at Part 3 of the Constitution, and to recommend them to Council for endorsement.

5. Cabinet is also asked to recommend that Council agrees or notes, as appropriate, the remainder of the revised Constitution as a whole.

FINANCIAL AND LEGAL IMPLICATIONS

Financial

- 6.. There are no financial implications arising directly from this report.

Legal

7. Some of the changes are required due to new legislative provisions, others are necessary to reflect changes in the political and constitutional/governance framework of the Authority.

RISK ASSESSMENT

8. The risks involved are classed as low to medium and will be minimized by what is proposed, which will mirror the current political and constitutional framework.

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

9. The functions involved are relevant to various key improvement priorities eg organisational and operational effectiveness.

EQUALITIES IMPACT ASSESSMENT

10. It is not considered that this report gives rise to any requirement for an assessment to be undertaken.

CONSULTATION INCLUDING WARD COUNCILLORS

11. The changes to delegations have been highlighted and drawn specifically to Members' and Officers' attention. The updated version of the Constitution has been made available via Public Folders/SBC Constitution on the Outlook system, with the various changes highlighted for ease of reference.

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Background Papers:

Ward(s) and Ward Councillors:

Property Implications:

The published Constitution

Not ward specific

None

Revisions to Constitution

Constitution Reference	Matter	Approval Needed?
Article 5	Changes to the protocol on electing the Mayor as per discussions at MAP.	✓
Article 9	Details of the Internal Audit service functions, aims and objectives.	✓ (To inclusion, but not the details)
	Terms of Reference for Standards Assessment, Review, Consideration and Hearing Sub-Committees.	✓ (To inclusion, but not the details)
Article 10B.05	Partnerships - updated to reflect previous Council decision.	X
Article 14	Finance, Contracts and Legal matters - updated to reflect previous Council decision.	X
Part 3 Responsibility for Council Functions	Planning - Functions 2, 3 and 7 - updated to reflect agreed protocol - improving decision making and agreed Officers planning powers.	X
	Function 45 - agreed contract values included.	X
	Staffing Matters - Functions 47, 50(a), 52-54, 55, 59-61, 63-72 - amendments and deletions.	✓
	General delegation onwards - Function 102 - deleted.	✓
Responsibility for Executive Functions	DTVA - Function 25 - amended.	✓
	38 - add in JNSA.	✓
	44 - Contracts - new, agreed powers included.	X
	52 - agreed contract values included.	X
	211 - new, agreed street naming policy included.	X
	266, 267 - adoption - new legislation included.	X

	268 - NHS and community care - updated for new legislation.	X
	CESC - 270 - 274 - updated to reflect new legislation.	X
	280 (Childminders)/285 (Guardian ad Litem) - deletions.	X
	288 - Looked after Children	✓
	349, 358, 359, 373, 382 and 419 - Add Corporate Director DNS to Corporate Director CESC.	✓
	362 - 367 - Mental Capacity	✓
	416 - 418 - Joint Arrangements - new titles.	X
	Appendix A new legislation incorporated.	✓
Part 4	New agreed contracts procedures rules - added.	X
	Employee Procedure Rules revised to reflect agreed change in Cabinet Member portfolio.	X
	Changes to appointment of substitutes, rules 6.1, 6.2 as per discussions at MAP and a clarification in 6.3.	✓
	Public questions - a change to the scope of questions (rule 10.5) as per discussions at MAP.	✓
Part 5	Confidential Reporting Policy updated to reflect arrangements for local assessment of complaints about member conduct.	X
Part 6	New agreed allowances scheme for 2009/10 added.	X
Part 7	Management structures updated reflecting decisions already taken.	X

Part 8	Standards Committee dispensation documents/procedures updated to reflect new regulations.	X
	Cabinet Member Portfolios updated to reflect agreed changes.	X