

SUBJECT:	Review of the Council's Constitution
REPORT OF:	Monitoring Officer
RESPONSIBLE OFFICER	Jim Burness, Director of Resources
REPORT AUTHOR	Joanna Swift, Head of Legal and Democratic Services and Monitoring Officer
WARD/S AFFECTED	N/A

1. Purpose of Report

In accordance with the agreed work plan to enable the Committee to undertake a detailed review of the Scheme of Delegations to Officers and the draft glossary of terms used in the Constitution.

RECOMMENDATION

That the Committee consider and agree the proposed revisions to the:-

- 1. Scheme of Delegations to Officers Note on Methodology, General Limitations and General Powers at Appendix 1**
- 2. Delegations to Named Officers at Appendix 2**
- 3. Delegations to External Bodies/Persons and the Proper Officer at Appendix 3**
- 4. Proposed Glossary of Terms at Appendix 4**

2. Reasons for Recommendation

To ensure the Council's Constitution is fit for purpose and more user-friendly for members, staff and the public, to introduce harmonised procedures with South Bucks District Council where this will facilitate more effective running of shared services and to ensure the Council meets its statutory duty of publishing an up to date Constitution.

3. PART 7 Scheme of Delegations to Officers

- 3.1 The Committee agreed a work programme for reviewing and updating the Constitution at their meeting in October which was revised at their last meeting. This report deals in detail with the Scheme of Delegation to Officers in Part 7 Section B of the Constitution which due to its length has been broken down into 3 parts and is appended with proposed revisions shown in track changes. Also attached for considered is a proposed new glossary of the terms used in the Constitution to be included as a new Part 10.
- 3.2 Part 7 Section B contains a general introduction to Scheme of delegations to officers together with details of the delegations to individual named officers. The methodology explains individual delegations are identified as being from either the Council (for functions such planning and licensing which are reserved to Full Council by the Functions and Responsibilities Regulations 2000 as amended) or the Cabinet (for executive functions which are defined under the Local Government Act 2000 as all functions not reserved to Full

Council). The executive delegations will need to be approved separately by Cabinet. Therefore an identical report on the updated Constitution will go to the meeting of Full Council on 16 May and Cabinet on 27 June for approval.

Methodology, General Limitations and General Powers

- 3.3 This section of the scheme is set out in Appendix 1. It has been updated to reflect the new joint senior management structure. The delegation numbers themselves will be consecutive and updated after the Committee agrees the detailed delegations to named officers at Appendix 2. The General Limitations in paragraph 2 apply to all delegations and require officers to exercise their powers strictly in accordance with approved council policies, procedures and budgetary provisions. If a delegated decision would be contrary to adopted policies and procedure rules (including for example Contract and Financial Procedure Rules) or outside approved budgets, officers must refer the decision to the Cabinet or the relevant Committee as appropriate. The General Powers in paragraph 3 have been amended to include powers required for the day to day running of service areas and avoid the duplication of certain delegations under each of the named officers, for example powers to authorise staff to exercise statutory powers of inspection and entry, issue statutory notices and requisitions, take associated enforcement action and deal with staffing matters. Again the exercise of these powers must be in accordance with the Council's adopted policies and procedures and any specific conditions listed in the individual delegations. This could include consultation with the appropriate cabinet portfolio-holder or Committee chairman or another officer.

Detailed Delegations to Named Officers

- 3.4 The detailed delegations are listed by officer and cover each area of responsibility where officers are authorised to exercise delegated powers together with any conditions for exercising that power. To avoid the Scheme becoming out of date when legislation changes some powers are delegated within overall functional descriptions where this is legally permissible e.g. food hygiene and food safety, public health and environmental protection. In these cases the exercise of a delegation applies to functions in a broad and inclusive manner and is intended to include the doing of anything which will facilitate or is conducive or incidental to the discharge of the specified functions. Elsewhere it is necessary to be specific about statutory provisions, for example in respect of planning and licensing functions.
- 3.5 Officers are also expected to consider in what circumstances it might be appropriate to consult members such as the relevant Cabinet portfolio holder, Committee Chairman or local members before taking a decisions. If such a member objects to the proposed decision the matter must be reported to the Cabinet or relevant decision-making body for consideration unless there is a specific provision for dealing with objections within a particular delegation. The Cabinet or relevant Cabinet member may reserve a decision about a particular matter to them or require that an officer refrains from exercising delegated authority. Furthermore officers must not exercise their delegation on a decision in which they have a personal interest.

Delegations to External Bodies/Persons and the Proper Officer

- 3.6 These delegations are set out at Appendix 3 and mainly deal with functions in respect of communicable diseases (which are now the responsibility of Bucks CC) and where statutes required a proper officer to be designated to act on behalf of the Council. These have been updated to reflect current legislative position.

Glossary of Terms

- 3.7 A proposed glossary of terms used in the Constitution is attached at Appendix 4 for consideration and would be inserted as a new Part 10.

4 Consultation

The Committee is asked to consider whether, and if so how, they wish to consult on the proposed revisions with members more widely, either via committees/cabinet or individually.

5 Options

The Committee can decide whether to agree the proposed revisions as set out in the attached appendices and suggest alternatives.

6. Corporate Implications

Financial – There are no financial implications arising directly from this report

Legal – As set out in the report

Risks issues – The lack of an up to date and effective Constitution could increase the risk of governance failures

Equalities - None specific

7. Links to Council Policy Objectives

There are no direct links to the policy objectives. But the Council has a statutory duty to maintain an up to date Constitution and publish this on the website.

8. Next Steps

As set out in the agreed work programme.

Background Papers:	None except those referred to in the report
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