

MUNICIPAL YEAR 2011/2012 REPORT NO. 3

MEETING TITLE AND DATE:

Governance Review
Group – 19 April 2011
Council – 4 May 2011

REPORT OF:

Director of Finance & Corporate
Resources

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Agenda – Part: 1

Item: 12.2

**Subject: Change to Constitution
Delegation of Executive Functions by
Leader**

Cabinet Member consulted:

1. EXECUTIVE SUMMARY

Section 236 of the Local Government Public Involvement in Health Act 2007, subsection (1) provides for the Leader of the Council to delegate functions of the Council to any member, providing that function is exercised within that member's particular ward and those functions are the responsibility of the Executive.

This report brings that powers to the Council's attention and seeks approval to provide for it within the Council's Scheme of Delegation and Constitution more generally.

2. RECOMMENDATIONS

- 2.1 The Council notes the statutory power of the Leader under Section 236 of the Local Government and Public Involvement in Health Act 2007 to delegate functions, which are the responsibility of the Executive, to other members (subject to them being exercised in members' own wards only)
- 2.2 Council agree to the Constitution being amended to reflect the power outlined in 2.1 above and as detailed in the report.

3. BACKGROUND

- 3.1 While the majority of the actions of ward councillors can be expected to fall within their normal role of consulting and representing local

residents, there may be some activities which go beyond this framework, which could be viewed as functions of the Executive or facilitate, or are conducive or incidental to, the discharge of that function. For example, Councillors making arrangements with officers as to consultative activities or the use of officer resources, or involving the spending of money, which could properly be seen as incidental to the functions of the authority, as opposed to arising from the normal representative role of councillors.

3.2 The Local Government and Public Involvement in Health Act 2007 gives the Leader the power to delegate such activities to ward councillors, on the condition that such powers are restricted to members' own wards and they are matters for which the Executive has responsibility.

3.3 It is felt appropriate to include this delegated power in the Council's Scheme of Delegation and in the Constitution more widely.

4. ALTERNATIVE OPTIONS CONSIDERED

The Constitution could remain unchanged. However the power to delegate is provided for within statute so could be exercised anyway.

5. REASONS FOR RECOMMENDATIONS

To enhance the role of ward councillors and to regularise the Council's Constitution with the new powers of the Leader.

6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

6.1 Financial Implications

None in relation to the recommendations within this report. Whenever this power is exercised, financial implications will be set out at that stage.

6.2 Legal Implications

As the report states, Section 236 of the Local Government & Public Involvement in Health Act 2007, subsection (1), provides that arrangements may be made for the discharge of any function of a local authority by a member, to the extent that it is exercisable in relation to the electoral ward of that member.

Such arrangements may not be made in respect of a member of the executive if the function could be discharged by him under arrangements made section 14(2)(b)(ii) of the LGA 2000.

In the case of a function which is the responsibility of the Executive, pursuant to s. 236 (2) (a) the senior executive member (i.e. the Leader) makes the arrangements.

Any delegation may not prevent the exercise of the function by the person who made the arrangements, or in any other way in which it is permitted to be discharged by or under an enactment (section 236(5)).

The discharge of a function includes anything which is calculated to facilitate, or is conducive or incidental to, the discharge of that function (section 236(8)).

6.3 Property Implications

None identified

7. KEY RISKS

The proposed change is entirely in accordance with statute

There are no particular risks associated with the recommendations in this report. Risk assessments will be undertaken for each proposal delegated under this power.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

Delegation of functions, which are the responsibility of the Executive, to other members (subject to them being exercised in members' own wards only), will assist in local decisions being made which reflect local need.

8.2 Growth and Sustainability

Delegation of functions, which are the responsibility of the Executive, to other members (subject to them being exercised in members' own wards only) will help to create stronger communities by securing greater involvement from local people within their communities and heightening engagement with the Council. It will also help refine and increase the effectiveness of services provided by the local authority.

8.3 Strong Communities

The use of s.236 LGPIHA 2007 to delegate specified executive functions to ward councillors will help to promote increased community engagement with residents by ward councillors.

9. PERFORMANCE MANAGEMENT IMPLICATIONS

None at this stage.

Background Papers

Section 236 of the Local Government Public Involvement in Health Act 2007.