

REPORT OF THE HEAD OF DEMOCRATIC SERVICES

(i) URGENT IMPLEMENTATION OF DECISIONS

RECOMMENDATION: That the Urgency decisions detailed below be noted.

Information

1. The Constitution allows a Cabinet or Cabinet Member decision to be implemented before the expiry of the 5 day call-in provided there is agreement from the Chairman of the Executive Scrutiny Committee to waive this. All such decisions are to be reported for information only to the next full Council meeting.
2. Recently the following decisions have been made using the urgency procedures:

Cabinet Member decisions under special urgency procedures in respect of the School Capital Programme:

- Charville Primary School: phase 2a - classroom extension on 3 July 2012
- Rabbsfarm & Wood End Primary Schools: phase 2a - classroom extension on 4 July 2012-08-17
- Pinkwell Primary School classroom extension, refurbishment of existing toilets and external works on 4 July 2012
- Rosedale Primary School: phase 2a - classroom extension on 10 July 2012
- Ryefield and Hillingdon Primary Schools: phase 2a - classroom extension on 10 July 2012
- Award of consultancy and construction contracts for the Abbotsfield School 6th Form project on 18 July 2012
- Harefield Primary School (Infant and Junior) classroom extensions, refurbishment of existing toilets and external works on 20 July 2012

Cabinet decision under urgency procedures:

- Release of capital funds for the school expansion programme on 26 July 2012.

(ii) CHANGES TO THE CONSTITUTION TO REFLECT NEW SCHOOL GOVERNING REGULATIONS

RECOMMENDATION: That the proposed changes set out in bold in the report be approved.

Governing body appointments to maintained schools

There are now two sets of governing body constitution regulations operating in parallel for maintained schools. Governing bodies constituted before 1st September 2012 must follow the School Governance (Constitution) (England) Regulations 2007. Governing bodies constituted after 1st September 2012 must follow the School Governance (Constitution) (England) Regulations 2012. This also requires the

appointment of school governors be made under these two different sets of regulations.

Schools with a constitution effective before 1st September 2012 will still require the Cabinet Member for Education and Children's Service's formal approval to appoint local authority governors to their governing bodies following nomination.

However, schools with a constitution effective from or after 1st September 2012 can only require the Council to nominate a local authority governor. In such cases it will be the governing body itself that has the power to appoint to the local authority governor, if the candidate is acceptable to them.

It is proposed to amend the Cabinet Member for Education and Children's Services delegations in Article 7 of the Constitution accordingly to clarify both approval and nomination powers under the different regulations.

Local authority influenced status and Academies

There is a legal limit to the number of local authority associated persons that an academy governing body may have on its governing body, including directors or trust members. Local authority 'associated persons' are current Councillors, current officers or anyone who has been a Councillor within the past four years.

Should the number of such persons on an academy governing body be 20% or higher of the total membership, then the academy is deemed to have 'local authority influenced status' and must legally identify itself as having such status. This places extra bureaucratic burdens upon the academy. It is the Department for Education's policy that no academy should have local authority influenced status.

Furthermore, no local authority associated person is eligible to be appointed to the office of Director at an Academy unless his/her appointment to such office is authorised by the local authority to which he/she is associated.

To clarify who at the Council has the authority to authorise such appointments, it is proposed that Borough Solicitor be designated when an officer seeks authorisation and the Head of Democratic Services, in consultation with the Cabinet Member for Education and Children's Services, be designated if a Councillor (present and within the past four years) seeks authorisation. In this way, it will mirror the Council's existing procedures for declarations of interests. Part 3 - Officer Scheme of Delegations in the Constitution - will be amended accordingly.

(iii) NEW URGENT CONTRACT DELEGATION

RECOMMENDATION: That the delegation set out below be approved.

To improve the flexibility of the Council to respond effectively to short-notice pressures placed on the delivery of its capital projects and services, it is proposed a new delegation be given to the Chief Executive as set out below:

In respect of a Council capital project or revenue service, where an emergency or exceptionally urgent situation arises in relation to a commercial contract where:

- a) The Leader and Chief Executive agree the urgency;*
- b) There is no Cabinet meeting imminent;*
- c) Any delay would seriously jeopardise the Council's finances or its ability to deliver services and;*
- d) A previous executive decision has been made or proposed in respect of the capital project or service provision concerned,*

authority is granted to the Chief Executive, subject to the written agreement of the Leader of the Council, to incur expenditure and make any new and necessary contractual decisions in order to secure the successful delivery of the project or service.

In such instances, the Council's Procurement and Contract Standing Orders can be waived. Any decisions taken must be reported to a subsequent Cabinet meeting for formal ratification.

This delegation will be added to Part 3 – Officer Scheme of Delegations.

(iv) PROCUREMENT AND CONTRACT STANDING ORDERS

RECOMMENDATION: That the change set out below be approved to the Standing Orders and related sections of the Council's Constitution.

The Leader of the Council is proposing to amend the Procurement and Contract Standing Orders so that approval to accept tenders is as follows:

£0 – 9,999	Approved Officer
£10,000 - £49,999	Approved Officer with informal written acceptance from relevant Cabinet Member and Cabinet member for Co-ordination & Central Services
£50,000 – 249,999	Formal decision by the relevant Cabinet Member and Cabinet Member for Co-ordination & Central Services or the Leader of the Council
£250,000 or greater	Formal decision by the Cabinet

This change will be amended in the relevant sections of the Procurement and Contract Standing Orders and other related sections of the Council's Constitution.