

Central
Bedfordshire
Council
Priory House
Monks Walk
Chicksands,
Shefford SG17 5TQ



**TO EACH MEMBER OF THE
CONSTITUTION ADVISORY GROUP**

30 November 2010

Dear Councillor

CONSTITUTION ADVISORY GROUP - THURSDAY 2 DECEMBER 2010

Further to the Agenda and papers for the above meeting, previously circulated, please find attached the following reports that were marked as to follow in the agenda:

7. **Amendments to the Delegations to the Director of Customer and Shared Services**
8. **Reports to Council by Officers**

Should you have any queries regarding the above please contact Sandra Hobbs on Tel: 0300 300 5257.

Yours sincerely

A handwritten signature in black ink that reads 'Shobbs'.

Sandra Hobbs
Committee Services Officer
email: sandra.hobbs@centralbedfordshire.gov.uk

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CONSTITUTION ADVISORY GROUP

DATE: 2 December 2010

TITLE	Review of Disposals Delegations
REPORT OF	Ian Brown, AD Assets (Interim)

PURPOSE	To provide CAG with proposals for alterations to the Delegations in the Constitution.
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ORIGIN OF PROPOSAL	Since the last update of delegations the programme of Capital disposals has increased requiring greater areas of discretion.
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RECOMMENDATION:

The Constitution Advisory Group agree to the proposals to amend the delegated authority in Part H3 of the Constitution.

REASON FOR RECOMMENDATIONS

- (1) The delegations were last updated in August 2010. Since that time the Assets team have examined the delegations and seek to propose the following amendments. Part H3 4.5.29 requires the approval of relevant ward members to the disposal of Surplus property. Whilst it is appropriate to require the approval of the Portfolio Holder, and this should remain, it is proposed that the ward members should only be consulted.

- (2) To avoid encumbering Executive with all disposals (the numbers of disposals will increase significantly over the next 3 – 5 years) the maximum value for delegated authority for capital disposals in 4.5.19 it is proposed should increase to £500,000 (from £200,000). (This limit is proposed following consultation with a number of other councils). The term “Whole Life” is not appropriate in this context and should be removed.
- (3) In 4.5.27 there should be the addition of “current” before Asset Management Plan to clarify the position.
- (4) Since the last update the Council is now required to transfer its interest in any land used for the purposes of operating a school if that school advises that it intends to become a Trust School or an Academy. In the case of a Trust we have a Statutory requirement to transfer the freehold, and for an Academy a long leasehold. (125 years)

SUPPORTING INFORMATION

1. With regard to (1) above it is proposed that ward members should only be consulted on disposal of surplus property and their approval is not specifically required. It is proposed to alter the Qualifications of 4.5.29 in the Delegations to read “Subject to approval of the relevant Portfolio Holder and consultation with the relevant ward member(s)”.
2. The management of the Council’s property portfolio requires the exercise of professional officers’ expertise and it is suggested that the Executive should not have to be encumbered with every disposal but rely on the Officers/ Portfolio Holder to report on tactical disposals appropriately. The proposal is to increase the delegated authority to the Director of Customer and Shared Services for capital disposals to £500,000 in consultation with the Portfolio Holder.
3. Whilst we have a Statutory requirement to transfer land to a Trust or Academy it is not covered in the Constitution. It is therefore proposed to create a new delegated authority to the Director of Customer and Shared Services to authorise the transfer of freehold land at nil value to Trust Schools and 125 year leases to Academy Schools, where it is a Statutory requirement to do so, subject to consultation with the Portfolio holder.

Contact Officer Details:	Key Background Papers:
Ian Brown, AD Assets 0300 300 5711 Peter Burt, Head of Assets, 0300 300 5281	

Appendix A

H3 Scheme of Delegation to Directors and other Officers – Director of Customer and Shared Services

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|--------|--|---|
| 4.5.19 | To authorise the development and appropriation of land and buildings, together with the granting or taking, assignment, surrender or termination of leases, tenancies, licences, easements, wayleaves and variations of rent, and, subject to a maximum value in any case of £200,000 per annum (revenue) or £500,000 (capital), to authorise the acquisition and disposal of land and buildings or any estate or interest in any land and buildings (acquisitions and disposals between £200,001 and £500,000 inclusive are delegated to the relevant Portfolio holder – see Part C3, paragraph 3). | Subject to consultation with the relevant portfolio holder. |
| | | <div style="border: 1px solid red; padding: 2px; display: inline-block;">Deleted: 2</div>
<div style="border: 1px solid red; padding: 2px; display: inline-block;">Deleted: whole life</div> |
| 4.5.20 | To approve the terms of the acquisition, lease or grant of any interest in land and/or buildings. | None |
| 4.5.21 | To take such actions as are considered appropriate in relation to advance payments, blight notices, home loss payments under the Land Compensation Act 1973, notices to quit, purchase notices and other notices. | None |
| 4.5.22 | To seek planning permission for the development of land where such land is not required for the statutory functions of the Council. | None |
| 4.5.23 | To establish and maintain a corporate database of the Council's land and buildings, including details of liabilities, and to perform any responsibilities placed on the Council under the Local Government Planning and Land Act 1980. | None |
| 4.5.24 | To take appropriate action on behalf of the Council with regard to rating issues, including the conduct of appeals. | In consultation where appropriate with the Monitoring Officer. |

4.5.25	To determine and issue general guidelines to officers for the management of land resources and the maintenance of buildings etc.	None
4.5.26	To certify or make arrangements for the certification of authorisation and identity cards and passes for officers and members.	None
4.5.27	To let land and premises for not more than fifteen years in accordance with the Council's <u>current</u> Asset Management Plan.	None
4.5.28	To licence land and premises for not more than 364 days.	None
4.5.29	In accordance with the Surplus Policy, to sell land surplus to requirements which is on the Disposals List in accordance with the delegated powers outlined in 4.5.20.	Subject to approval of the relevant Portfolio Holder and <u>consultation with the relevant</u> ward member(s).
4.5.30	To deal with all matters in connection with the management and leasing/licensing of the Council's industrial land and premises in accordance with the Council's current Asset Management Plan.	None
4.5.31	To deal with all matters in connection with the management and leasing of the Council's Managed Workspace in accordance with the Council's current Asset Management Plan.	None
4.5.32	To deal with all matters in connection with the management and leasing of the Council's retail premises in accordance with the Council's current Asset Management Plan.	None
4.5.33	To deal with all matters in connection with the Council entering into way leaves and easements.	In consultation with the Monitoring Officer.
4.5.34	To enter into leases of land where the Council is to construct a public amenity or provide or reacquire the freehold of land.	In consultation with the Monitoring Officer and relevant Portfolio holder.

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| 4.5.35 | To take decisions on applications by electricity, gas, water, telephone, broadcasting or cable companies to place any apparatus in, on, over or under any land or buildings owned by the Council. | In consultation with the Monitoring Officer and ward members. |
| 4.5.36 | To: | |
| | 4.5.37.1 | assess each application for release from restrictive covenants on its own merits; |
| | 4.5.37.2 | negotiate compensation payable to the Council where such release is requested in order to facilitate speculative development or some other profit making exercise. |
| 4.5.37 | To exercise, at his/her discretion, the provisions of any authorised guarantee agreement, such provisions to always be enforced except where there are commercial or operational reasons not to do so. | None |
| 4.5.38 | To serve, at his/her discretion, the required legal notice (Section 17 Notice) on original tenants where the tenant (Assignee) is in arrears in order to protect the Council's rights to pursue original tenants for the debt if it is considered viable. | None |
| 4.5.39 | To negotiate the grant of way leaves for the purposes of Town Centre Enhancement Schemes or Closed Circuit Television Schemes. | None |
| 4.5.40 | To undertake maintenance, repairs and alterations in respect of the Council's non-operational property. | None |
| 4.5.41 | To determine licences to erect and site public notice boards throughout Central Bedfordshire. | None |
| 4.5.42 | To approve and enter into property investments (in accordance with the provisions of the Investment Management Strategy). | Subject to the following criteria:- |

- (i) decision is required urgently to secure an investment and it is not possible to report to Executive;
- (ii) following consultation with the Leader of the Council, and relevant Portfolio Holder, Chief Executive, Chief Finance Officer and Monitoring Officer;
- (iii) any Key Decision must comply with the provisions of the Access to Information Rules (Record of an Individual Decision).

4.5.43 To authorise the transfer of freehold land at nil value to Trust Schools and 125 year leases to Academy Schools, where it is a statutory requirement to do so. Subject to consultation with the Portfolio holder.

(The remaining paragraphs in this section shall be renumbered accordingly.)

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CONSTITUTION ADVISORY GROUP
DATE: 2 December 2010

TITLE	Reports to Council by Officers	ITEM NO.
REPORT OF	Mel Peaston, Committee Services Manager	

PURPOSE	To consider whether there should be express provision in the Constitution for reports from the statutory officers to be submitted to Council.
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ORIGIN OF PROPOSAL	A recent Council Chairman's Briefing, whilst considering a report of the Monitoring Officer
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RECOMMENDATION:
<p>(1) that consideration be given to recommending to Council to amend the Constitution as follows:</p> <p>Part 5B Section 3.2 Business para 3.2.1.16 add the wording shown in italics below:-</p> <p><i>Any other business specified in the summons, including reports, if any, from the statutory officers (Head of Paid Service, S151 Officer, Monitoring Officer).</i></p>

SUPPORTING INFORMATION

1. Comments were made at the recent Council Chairman's Briefing expressing surprise that a report of an officer was being submitted to Council.
2. The Constitution at Part B5 section 18.16 para 18.16.1 states:

"Officers will not normally be called upon to address the Council or to answer questions unless specifically requested to do so by the Chairman of the Council. This rule shall not apply to the provision of procedural advice by the Monitoring Officer or to the Head of Paid Service and Chief Finance Officer when acting in their statutory roles."
3. This indicates that there may be times when it is appropriate for a statutory officer to address the Council.
4. There is currently nothing in the Constitution which prevents a report from being submitted to Council by an officer. It would be inadvisable for a statutory officer to be prevented from submitting a report to Council.
5. A check has been carried out to establish whether other councils have any guidance on whether officers address Council meetings. In summary:-
6. **Cambridgeshire County Council** has no similar paragraph to this Council's regarding Officers addressing the Council.
7. **Peterborough City Council (Unitary)** has no similar paragraph to this Council's regarding Officers addressing the Council. However within the section for Ordinary Council meetings – order of business - there is a provision:
" (j) hold "Council business time" comprising notices of motion; recommendations of the Executive and of any committees; reports and recommendations of the Proper Officer and any other business which needs to be transacted by Council."

There is also a note at the end of this section:
"General.
All functions in the above rules that are identified as being the responsibility of the Chief Executive may be exercised on her/his behalf by the Monitoring Officer, Head of Legal Services or Principle Democratic Services Officer."
8. **Nottinghamshire County Council**
Within the section setting out business at ordinary meetings of the Council there is a provision:
"2.1.19 reports of the Chief Executive, Service Director, Finance, Monitoring Officer and chief officers".

9. Whilst it is for this Council to determine how it wishes to operate, it should not rule out the possibility of statutory officers submitting a report to Council. Two out of three of the councils listed above appear to have included specific provision for this.
10. It is therefore suggested that the part of the Constitution which sets out the business of ordinary council meetings, Part B5 section 3.2 Business, should be amended to clarify that the final item of business at a council meeting, any other business specified in the summons, may include reports from a statutory officer.
11. The proposed amendment and the context are set out at **Appendix A**.

Contact Officer Details:	Key Background Papers:
Mel Peaston, Committee Services Manager. Tel: 0300 300 6076	None

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Appendix A

3.2 Business

- 3.2.1 The order of business at every ordinary meeting of the Council will be:-
- 3.2.1.1 To elect a person to preside if the chairman and vice-chairman are absent.
 - 3.2.1.2 To approve the minutes of the last ordinary meeting of the Council.
 - 3.2.1.3 To receive any declarations of interests from members.
 - 3.2.1.4 Chairman's announcements and communications.
 - 3.2.1.5 Leader's announcements and communications.
 - 3.2.1.6 A period of up to 15 minutes for public questions, statements and deputations and responses, in accordance with the Public Participation Procedure as set out at Part A4 (Citizens and the Council) of the constitution.
 - 3.2.1.7 A period of up to 30 minutes for presentation and discussion of petitions in accordance with the Public Participation Procedure as set out at Part A4 (Citizens and the Council) of the constitution.
 - 3.2.1.8 To deal with any business remaining from the previous meeting
 - 3.2.1.9 To receive and consider recommendations contained within reports of the Executive and committees and reports of the Bedfordshire Police Authority and Bedfordshire and Luton Combined Fire Authority and answer questions asked under Rule No 12.1.
 - 3.2.1.10 To receive and consider reports on the business of joint arrangements and external organisations and receive questions and answers thereon.
 - 3.2.1.11 To answer written questions from members of the Council asked under Rule No 12.2.

- 3.2.1.12 To answer oral questions asked by members of the Council under Rule No 12.7.
- 3.2.1.13 To consider motions by members of the Council under Rule No 16 in the order received.
- 3.2.1.14 To receive ward presentations by members of the Council under Rule No 14.
- 3.2.1.15 To debate strategic policy issues in accordance with Rule No 15.
- 3.2.1.16 Any other business specified in the summons including, if any, reports of the statutory officers (Head of Paid Service, S151 Officer, Monitoring Officer).