

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



CONSTITUTION ADVISORY GROUP

DATE: 21 March 2011

TITLE	Leader's Term of Office and Executive Powers
REPORT OF	John Atkinson, Head of Legal & Democratic Services

PURPOSE	To clarify the authority of the Leader to take decisions in respect of executive functions and the arrangements that apply in the period following an election.
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ORIGIN OF PROPOSAL	The Constitution needs to reflect the changes introduced in the Local Government and Public Involvement in Health Act 2007 regarding the powers and term of office of the Leader.
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RECOMMENDATIONS:

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| <p>(1) That Paragraph C4 of the Constitution is amended to include the Leader amongst the list of those who can discharge executive functions.</p> <p>(2) That paragraph C1 of the Constitution is amended to include an additional sub-paragraph 3.1.5 as proposed in paragraph 5 of the report.</p> |
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SUPPORTING INFORMATION

1. At its meeting in December 2010, the Constitution Advisory Group agreed to recommend an amendment to Part C1 of the Constitution to provide for the Leader to remain in office until the day of the first annual meeting of the Council which followed his/her election as Leader. This change was necessary to comply with Section 44D of the Local Government Act 2000, which was introduced in the Local Government & Public Involvement in Health Act 2007.
2. During the discussion of this item, Members expressed some concern about the position of the Leader if he/she did not seek re-election or was unsuccessful and yet remained Leader after the election until the Council's annual meeting. Officers were asked to draft some wording to limit the Leader's authority to take decisions during this period.
3. Section 14 of the Local Government Act 2000 provides that the Leader (as senior executive member) may discharge any functions which are the responsibility of the Executive. He/she may also arrange for any of those functions to be carried out by the Executive, by another member of the Executive, by a committee of the Executive or by an officer of the authority.
4. The Council's executive arrangements are covered in Part C of the Constitution. Responsibility for decision making is covered in Part G of the Constitution. Part C 4 of the Constitution provides that executive functions may be discharged by the Executive as a whole, by a committee of the Executive, by an individual member of the Executive or by an officer. The fact that the Leader has power to exercise executive functions in his/her own right is not covered explicitly. It is proposed that part C4 paragraph 1.1 is amended to make the position clear.
5. To cover the point of concern raised by Members at the last meeting the following note could be included at C1 paragraph 3.1.5:

"Where the Leader has not been re-elected to the Council but remains in office after the election until the Council's annual meeting, the expectation is that the Leader will not make decisions in respect of the Council's executive functions, except on grounds of urgency. "

Contact Officer Details:	Key Background Papers:
Mel Peaston, Committee Services Manager	None