

Constitutional Updates and Council Delegations

REPORT TO FULL COUNCIL



DATE	26/02/2020
PORTFOLIO	Leader
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PURPOSE

- 1. To note an addition to the delegations of the Head of Housing and Development Control made by the Leader relating to the Tenants Fee Act 2019 within Part 3 (Exec Functions) of the constitution.
- 2. To note the relevant policy development decision making process for Executive and Council Functions.

RECOMMENDATION

- 3 .That an addition to the delegations of the Head of Housing and Development Control made by the Leader relating to the Tenants Fee Act 2019 within Part 3 (Exec Functions) of the constitution be noted.
- 4. That the relevant policy development decision making process for Executive and Council Functions be noted.

REASONS FOR RECOMMENDATION

- 5. To ensure that the constitution is updated, and that accountability and transparency is maintained.

SUMMARY OF KEY POINTS

- 6. To note changes to the Part 3 of the constitution (Exec Functions) by the Leader.
 - (a) On 17th February 2020 an addition to the delegations of the Head of Housing and Development Control regarding the implementation of the Tenants Fee Act 2019 was agreed by the Leader, following a report to the 17th February 2020 Executive, as set out below;

“To exercise all discretionary powers in relation to the Tenants Fee Act 2019”.

7. To note the relevant policy development decision making process for Executive and Council Functions

Apart from major strategies and the Budget, which are Council Functions and are set out in the Policy Framework (Part 2, Article 4), all other policy decisions are Executive Functions and therefore are decisions made by the Executive.

Policy changes to Executive Functions can be developed and considered by Scrutiny before they are considered by the Executive, or their implementation looked at afterwards by Scrutiny.

Policy Framework decisions (Council Functions) made by Full Council are required to be considered beforehand by the Executive, and can also be considered by Scrutiny prior to the Executive or afterwards.

As shown above, Scrutiny is an integral part both of the Executive system regarding Executive Functions as well as having a role for Policy Framework Council Functions..

Therefore any Motion to Full Council regarding an Executive Function can only ultimately make a recommendation to the Executive for them to make a decision.

Additionally if any Full Council motion involves material expenditure then it has to be referred initially to the Executive for their views without discussion at Full Council.

Therefore any Motion to Full Council regarding a Council Function which is also on the Policy Framework must also be considered first by the Executive.

Since the 18th December 2019 Full Council, there are currently 4 Notices of Motion to be considered as follows;

1. Glyphosate- referred to Exec at 10th July Full Council without discussion - Executive Function- to 17th Feb 2020 Exec
2. Single Use Plastic Free Burnley- postponed from 16th October 2019 Full Council-submitted to Dec 19 FC and referred to Exec -Executive Function-to 17th March 2020 Exec
3. Housing Implementation Strategy --to be submitted to the Full Council at the next meeting after 17th Feb 2020 , and then referred to Exec as both a budgetary and potentially a Policy Framework item (part of the Local Plan)- Council Function
4. Passivhaus -rejected at Feb 2019 Full Council after referral to Exec- resubmitted to Dec 19 FC and referred to Exec without discussion-Executive Function-to 17th Feb 2020 Exec

Motions 1,2, and 4 are all Executive Functions, and therefore any decision on Policy can only be taken by the Executive.

Therefore Motions 1,2, and 4 need to be altered at their beginning with the following words, to make it clear that any decision by Full Council can only be recommendations to the Executive;

“That the Executive be recommended to ...”

Further research has been done, and indicates the following procedure being used at Cornwall CC for Motions at Full Council, which confirms the above approach.

“Our Procedure Rules state that motions, on being proposed and seconded and following the proposer being permitted up to three minutes to explain the reason for the motion being submitted, stand referred to the Cabinet/appropriate Committee where the matter has (i) significant financial implications; (ii) significant legal/constitutional implications; (iii) further background information/detailed consideration is required or (iv) where a change to/departure from the Council’s Budget and Policy framework may be required.

The Chairman may, if they consider it convenient/conducive to the dispatch of business enable them to be debated on the day – to support the decision making on this we have a template for Members to submit their motions on and then a further template for an officer response.

However, if any of the criteria above apply then its referred and has to come back within 6 months.

If the motion is referred to Cabinet as it is an executive function the Cabinet consider/make a decision and the Leader reports it back to Council through their announcements.”

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

8. None.

POLICY IMPLICATIONS

9. None.

DETAILS OF CONSULTATION

10. Member Structures Officer and Working Groups.

BACKGROUND PAPERS

11. None.

FURTHER INFORMATION
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