



North Devon Council

Report Date: Tuesday, 14 November 2023

Topic: Update to Delegated Powers in the Constitution

Report by: Simon Fuller, Senior Solicitor and Monitoring Officer

1. INTRODUCTION

1.1. In order to ensure that the Council's Constitution is kept up to date there are a number of recommended adjustments to be made to ensure that relevant officers hold appropriate delegations and act in compliance with policy and law.

2. RECOMMENDATIONS

2.1. To approve the proposed amendments to Annexe 2 to Part 3 of the Constitution as annexed to this report.

3. REASONS FOR RECOMMENDATIONS

3.1. Amendments to Annexe 2 of Part 3 are required to allow officers to act efficiently and in line with relevant policy and/or in accordance with current law.

4. REPORT

4.1. It is proposed to amend the Officer Delegations in Annexe 2 to Part 3 to the Constitution with the wording added as underlined in the annexed document and for the reasons as set out below.

4.2. In accordance with the decision of the Strategy and Resources Committee dated 4 September 2023, it has been considered that it is worth formally recording the delegation given to the Chief Executive and Chief Financial Officer to apply and act as a personal licence holder for the North Devon Community Lottery and as regards the management and oversight of the Lottery. This is reflected in paragraphs 3.45 and 6.39.

4.3. Following a recommendation from PSTAX, the Council's tax advisor, they have advised that the Council include additional measures into both the requirements on All Heads of Service and for the Chief Financial Officer in terms of accounting for and dealing with Value Added Tax. Accordingly relevant requirements have been added as a new 4.26-4.29 for All Heads of Service to comply with. This does not give additional powers but instead puts in place constraints and requirements which Heads of Service must follow to ensure VAT is dealt with appropriately.

4.4. In line with the above further requirements have been added as a new 6.31 to 6.36 for the role of Chief Financial Officer – Director of Resources and Deputy Chief Executive. Again this is pursuant to recommendation from PSTAX. As above this does not give additional powers and instead places

further obligations on the officer in this role to ensure VAT is dealt with appropriately, these are things which it would be expected would be done anyway but it is important that there is recorded direction in the Constitution that they will.

4.5. The final change is to paragraph 11.1 which relates to the role of Head of Governance. This is to reflect the fact that this officer already has powers to award Councillor and Community Grants and so, to enhance this following the creation of the “Keeping North Devon Together Fund”, this is to allow this officer to award funding pursuant to that fund and in accordance with Council policies. In addition, following Strategy and Resources Committee’s decision to take part in the North Devon Community Lottery with Gatherwell, this is to allow this officer to determine what would constitute a “good cause” to receive the benefits of that lottery scheme. It is considered appropriate that this is carried out at an officer level to enable suitable management of the Keeping North Devon Together Fund and the “good causes” which apply to benefit from the lottery scheme.

5. RESOURCE IMPLICATIONS

5.1. There are no resource implications

6. EQUALITIES ASSESSMENT

6.1. An Equality Impact Assessment has not been completed as no equality issues are affected.

7. ENVIRONMENTAL ASSESSMENT

7.1. There are no environmental implications of this report.

8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: None.

8.1.2. Improving customer focus: This will assist in making the Council more efficient through clarifying and consolidating powers to ensure that officers have appropriate powers to deliver services as efficiently as possible

8.1.3. Regeneration or economic development: None

9. CONSTITUTIONAL CONTEXT

9.1. Save as provided in paragraph 9.2 below, the decision in respect of the recommendations in this report can be made by this Committee pursuant to delegated powers provided in Part 3 Annex 1 paragraph 5 of the Constitution.



9.2. As noted in the report, the power to decide on one or more of the recommendations in this report is reserved to Council pursuant to Article 4..5.1 and as such the recommendation must be referred to Council to ratify.

10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers: Simon Fuller, Senior Solicitor and Monitoring Officer