

South Lakeland District Council
Council

30th June 2020

**Amendments to the Scheme of Delegation relating to
Procurement Matters and Applications for Grant Funding**

Portfolio:	Cllr Morrell Customer and Commercial Services and People Portfolio Holder
Report Author:	Linda Fisher Legal Governance and Democracy Specialist (Monitoring Officer)
Wards:	N/A
Forward Plan:	N/A

1.0 Expected Outcome

- 1.1 The amendment of the Constitution to provide specific delegation to the Directors for all matters that have been added to the Procurement Schedule, presented to Cabinet and Council for final decisions to be delegated to the Chief Executive and Directors. To provide clarification of the process required for any procurement awards over the Key Decision threshold.
- 1.2 The amendment of the Constitution to provide specific delegation to the Directors to apply for grant funding. To provide clarification of the process required for any grant awards over the Key Decision threshold.

2.0 Recommendation

2.1 It is recommended that Council;

- (1) Agree the proposed amendments to the Councils Constitution outlined in Table 1 Para 3.3 of this report; and**
- (2) To authorise the Monitoring Officer to make the required amendments to the Councils Constitution and Scheme of Delegation Part 3 Responsibility for Functions**

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3.0 Background and Proposals

- 3.1 The Council has a Procurement Schedule and Capital programme this is presented and agreed by the Cabinet and approved by Council at regular intervals.
- 3.2 Since April 2016 the Council's Constitution has permitted officers to conduct and conclude the contracting processes without further approval providing it is in line with the Procurement Schedule, to be approved by Council at least annually. This report seeks to clarify the process to be followed and to clarify

the thresholds and required actions relating to contract awards over the Key decision thresholds.

- 3.3 Where a procurement process is over budget then approval will still be required in accordance with the Financial Procedure Rules. Where an officer seeks approval for a waiver or exemption under the Contract Procedure Rules this is also included in the Procurement Schedule.
- 3.4 The Council may apply for grant funding from time to time and we require clarification of the process to be followed and the authorisation process for such matters. This is outlined within the Table 1, 2.1 (c)

3.2 Part 2 of the Constitution Article 13.03 defines our Key Decision Thresholds.

(b) Key decisions.

A key decision means an executive decision which, in relation to an executive function, has a significant effect on communities in two or more Wards of the Council and/or is likely to result in the Authority incurring expenditure or making savings above £100,000.

The proposal is to ensure the Councils Constitution is amended as shown in red and italics below with the additional wording. To provide clarification that all procurement decisions which have been on the approved Procurement Schedule and authorised by Cabinet and Council can be awarded by the Chief Executive or relevant Director. Those decisions which are by their value or impact key decisions are required to be added to the Forward Plan prior to the contract award. This will ensure transparency in decision making.

3.3 Table 1

Current Constitutional wording	Proposed Constitutional amendment and wording relating to Contract Awards under the Procurement Schedule.
<p><u>Part 3</u> <u>Responsibility for Functions</u> 3. Scheme of Delegation to Officers B General 2. To the Chief Executive and Directors 2.1 To take all steps necessary to deliver the services for which they are responsible, subject</p>	<p><u>Part 3 Responsibility for Functions</u> 3. Scheme of Delegation to Officers B General 2. To the Chief Executive and Directors 2.1 To take all steps necessary to deliver the services for which they are responsible, subject to the incurring of expenditure up to a maximum of £50,000 on any one item identifiable within a specific budgetary provision or, to the extent that the Budget itself is not sufficiently specific , within the detailed estimates prepared for the purposes of the Budget. <i>2.1 (a) In the case of contract awards relating to Procurement decisions which have been authorised</i></p>

<p>to the incurring of expenditure up to a maximum of £50,000 on any one item identifiable within a specific budgetary provision or, to the extent that the Budget itself is not sufficiently specific , within the detailed estimates prepared for the purposes of the Budget</p>	<p><i>by Cabinet and Council on the Procurement Schedule to make all final contract award decisions.</i></p> <p><i>2.1 (b) In the case of contract award decisions which are over the Key Decision Threshold to ensure that such final decisions are placed on the Forward Plan prior to the final decision being taken.</i></p> <p><i>2.1 (c) To make decisions to apply for grant funding. To make decisions to enter into contracts and sign off Terms and Conditions relating to the same. Where such funding applications are successful and the amount to be received exceeds the Key Decision Threshold to ensure that such final decisions are placed on the Forward Plan prior to the final decision being taken.</i></p> <p><i>NB: The rules relating to the thresholds for contracts/ agreements to be sealed by the Council apply.</i></p>
<p>6 To each lead Specialist or Operational Lead</p> <p>6.1 Authority to exercise any power delegated to his/ her Director in this Section of Part 3 thereof that relates to his/her area of responsibility.</p>	<p>6 To each Lead Specialist or Operational Lead</p> <p>6.1 Authority to exercise any power delegated to his/ her Director in this Section of Part 3 thereof that relates to his/her area of responsibility.</p> <p><i>6.2 In the case of contract awards relating to Procurement decisions which have been authorised by Cabinet and Council on the Procurement Schedule to make all final contract award decisions on all matters up to the value of £10,000 that relates to his/her area of responsibility.</i></p>

4.0 Consultation

4.1 The Portfolio Holder, Section 151 Officer and Lead Specialist Procurement and Contracting. The Corporate Management Team and Party Leaders.

5.0 Alternative Options

5.1 The Council could decide not to provide the clarification. If the Council does not make the Constitution clear and the process is not correctly followed decisions could be the subject of Legal challenge.

6.0 Links to Council Priorities

6.1 Individual proposals within the procurement schedule reflect Council Plan priorities and budget proposals.

7.0 Implications

Financial, Resources and Procurement

7.1 The amendments to the Constitution will ensure that the current practice and procedures are aligned and that those decisions over the Key Decision threshold are added to the Forward Plan prior to the Contract award.

Human Resources

7.2 There are no implications.

Legal

7.3 These are explained within the report.

Health, Social, Economic and Environmental

7.4 Have you completed a Health, Social, Economic and Environmental Impact Assessment? No

7.5 If you have not completed an Impact Assessment, please explain your reasons: This is not required

Equality and Diversity

7.6 Have you completed an Equality Impact Analysis? No

7.7 If you have not completed an Impact Assessment, please explain your reasons: This is not required

Risk

Risk	Consequence	Controls required
That we do not align the constitution with current practice and amend the scheme of delegation.	The risk of legal challenge.	To adopt the proposed amendments to the Constitution to provide the clarity required.

Contact Officers

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Tracking Information

Signed off by	Date sent	Date Signed off
Section 151 Officer	16 June 2020	22 June 2020
Monitoring Officer	Report Author	Report Author
CMT	18 June 2020	18 June 2020

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Lead Specialist	N/A
Human Resources Lead Specialist	16 June 2020

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Communications Team	16 June 2020
Leader	16 June 2020
Committee Chairman	16 June 2020
Portfolio Holder	15 June 2020
Ward Councillor(s)	N/A
Committee	16 June 2020
Executive (Cabinet)	N/A
Council	30 June 2020