



Oversight and Governance

Chief Executive's Department

Plymouth City Council

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Delegated Decisions

Delegated Executive/Officer Decisions

Delegated Executive and Officer decisions are published every Wednesday and are available at the following link - <https://tinyurl.com/ms6umor>

Cabinet decisions subject to call-in are published at the following link - <http://tinyurl.com/yddrqll6>

Notice of call-in for non-urgent decisions must be given to the Democratic Support Unit by 4.30pm on Wednesday 17 March 2021. Please note – urgent decisions and non-key Council Officer decisions cannot be called in. Copies of the decisions together with background reports are available for viewing as follows:

- on the Council's Intranet Site at <https://modgov/mgDelegatedDecisions.aspx>
- on the Council's website at <https://tinyurl.com/jhnax4e>

The decisions detailed below may be implemented on Thursday 18 March 2021 if they are not called-in.

Delegated Decisions

I. Councillor Haydon - Cabinet Member for Customer Focus and Community Safety:

- I.1. Amendment of Leaders Scheme of Delegation to Enable Devon County Council to Undertake Trading Standards Functions on our Behalf as Part of the Heart of the South West Trading Standards Service **(Pages 1 - 8)**

EXECUTIVE DECISION

made by a Cabinet Member



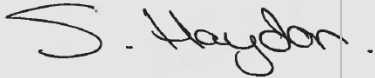
REPORT OF ACTION TAKEN UNDER DELEGATED AUTHORITY BY AN INDIVIDUAL CABINET MEMBER

Executive Decision Reference Number – CFCS05 20/21

Decision	
1	Title of decision: Heart of the South West Trading Standards Service” – Governance Arrangements
2	Decision maker (Cabinet member name and portfolio title): Councillor Sally Haydon (Cabinet Member for Customer Focus and Community Safety)
3	Report author and contact details: Alex Fry alex.fry@plymouth.gov.uk
4	<p>Decision to be taken:</p> <p>To approve recommendation as set out in the attached briefing note and as shown below:</p> <ol style="list-style-type: none"> 1) To approve the governance arrangements in relation to the trading standards joint service in line with the recommendation from cabinet dated 15 September 2020 and as a consequence request the Leader to - 2) Amend the Leader’s Scheme of Delegation to delegate to Devon County Council the ability to undertake Trading Standards functions on behalf of Plymouth City Council as part of the “Heart of the South West Trading Standards Service”, effective from 1 April 2021 and remaining in place for the duration of the legal agreement. 3) Amend the Leader’s Scheme of Delegation to delete the delegation to the Executive of Birmingham City Council, as this is no longer required.
5	<p>Reasons for decision:</p> <p>1 - On 15th September 2020 Cabinet agreed the following:</p> <p><i>“For Plymouth to enter into a joint Trading Standards Service with Devon, Somerset and Torbay subject to; the satisfactory conclusion of negotiations in relation to the legal agreement on the principles contained in the business case/cabinet report.</i></p> <p><i>a report authorising the detailed governance arrangements and any necessary proposed amendments to the constitution.</i></p> <p><i>The Director for Public Health is authorised to conclude the terms of the legal agreement.”</i></p> <p>2 - The necessary legal work in relation to the governance arrangements has now taken place and a draft legal agreement based on the principles contained in the cabinet report has been concluded. In order for the Joint Service to operate an amendment to the Leaders Scheme of Delegation is required to authorise the Joint Service to take enforcement activity in respect of cases arising in the Plymouth City Council administrative area. .</p> <p>3 - Part 3 of the Consumer Credit Act 1974 has been repealed therefore the existing delegation to Birmingham City Council is no longer applicable</p>

6	Alternative options considered and rejected: Not to amend the Scheme of Delegation. This would mean that Plymouth could not become part of the Joint Service and would have to continue to provide a Trading Standards Service			
7	Financial implications: Not to amend the Scheme of Delegation. This would mean that Plymouth could not become part of the Joint Service and would have to continue to provide a Trading Standards Service			
8	Is the decision a Key Decision? (please contact Democratic Support for further advice)	Yes	No	Per the Constitution, a key decision is one which:
			x	in the case of capital projects and contract awards, results in a new commitment to spend and/or save in excess of £3million in total
			x	in the case of revenue projects when the decision involves entering into new commitments and/or making new savings in excess of £1 million
			x	is significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority.
	If yes, date of publication of the notice in the Forward Plan of Key Decisions			
9	Please specify how this decision is linked to the Council's corporate plan/Plymouth Plan and/or the policy framework and/or the revenue/capital budget:	An effective Trading Standards Service contributes to all the key city priorities but especially, growing (supporting business and them from illegal and unfair competition) and caring (contributing to community safety and protecting scam victims and the vulnerable). Likewise, the service contributes to the aims of the Plymouth Plan particularly by ensuring safe communities, reducing inequalities and ensuring economic growth.		
10	Please specify any direct environmental implications of the decision (carbon impact)	No direct implications.		
Urgent decisions				
11	Is the decision urgent and to be implemented immediately in the interests of the Council or the public?	Yes		(If yes, please contact Democratic Support (democraticsupport@plymouth.gov.uk) for advice)
		No	x	(If no, go to section 13a)

I2a	Reason for urgency:		
I2b	Scrutiny Chair Signature:		Date
	Scrutiny Committee name:		
	Print Name:		
Consultation			
I3a	Are any other Cabinet members' portfolios affected by the decision?	Yes	
		No	x (If no go to section I4)
I3b	Which other Cabinet member's portfolio is affected by the decision?		
I3c	Date Cabinet member consulted		
I4	Has any Cabinet member declared a conflict of interest in relation to the decision?	Yes	If yes, please discuss with the Monitoring Officer
		No	x
I5	Which Corporate Management Team member has been consulted?	Name	Ruth Harrell
		Job title	Director of Public Health
		Date consulted	10/03/2020
Sign-off			
I6	Sign off codes from the relevant departments consulted:	Democratic Support (mandatory)	DS109 20/21
		Finance (mandatory)	djn.20.21.259
		Legal (mandatory)	35799/ag/3.3.2021
		Human Resources (if applicable)	
		Corporate property (if applicable)	
		Procurement (if applicable)	
Appendices			
I7	Ref.	Title of appendix	
	A	Briefing report for publication	

Confidential/exempt information								
18a	Do you need to include any confidential/exempt information?	Yes		If yes, prepare a second, confidential ('Part II') briefing report and indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box in 18b below. (Keep as much information as possible in the briefing report that will be in the public domain)				
		No	x					
		Exemption Paragraph Number						
		1	2	3	4	5	6	7
18b	Confidential/exempt briefing report title:							
Background Papers								
19	Please list all unpublished, background papers relevant to the decision in the table below. Background papers are <u>unpublished</u> works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based. If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part I of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.							
Title of background paper(s)		Exemption Paragraph Number						
		1	2	3	4	5	6	7
Cabinet Member Signature								
20	I agree the decision and confirm that it is not contrary to the Council's policy and budget framework, Corporate Plan or Budget. In taking this decision I have given due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not. For further details please see the EIA attached.							
Signature					Date of decision		10.3.21	
Print Name		Councillor Sally Haydon						

BRIEFING NOTE -
HEART OF THE SOUTH WEST TRADING STANDARDS – GOVERNANCE
ARRANGEMENTS



1. Delegation to Devon City Council

Background

1.1 On 15th September 2020 Cabinet agreed the following:

“For Plymouth to enter into a joint Trading Standards Service with Devon, Somerset and Torbay subject to; the satisfactory conclusion of negotiations in relation to the legal agreement on the principles contained in the business case/cabinet report, a report authorising the detailed governance arrangements and any necessary proposed amendments to the constitution. The Director for Public Health is authorised to conclude the terms of the legal agreement.”

1.2 Devon County Council is currently the lead and employing authority of a joint service for Devon, Somerset and Torbay local authorities and the model has proved effective and efficient in the view of the participating authorities.

1.3 Plymouth City Council Trading Standards will join and create an extended Joint Service covering the Heart of the South West area. A single service will be formed through partnership to cover the local authority areas of Devon, Somerset, Torbay and Plymouth. It is proposed that the new service is called the ‘Heart of the South West Trading Standards Service’.

1.4 Plymouth’s nine staff in its Trading Standards Service will TUPE transfer to Devon County Council. The formal TUPE consultation process has started.

1.5 It is proposed that the Joint Service will begin operating from 1st April 2021.

2. Delegation

2.1 In order for the Joint Service to be able to operate in Plymouth and carry out investigations and prosecutions, and deliver a range of Trading Standards Services, Plymouth’s Trading

Standards functions need to be delegated to Devon County Council. Plymouth City Council will retain the ability to enforce relevant legislation post-merger.

- 2.2 It is proposed that this delegation will take effect from 1st April 2021 and remain in place for the duration of the Legal Agreement forming the Joint Service. At present the agreement stipulates this to be ten years although there is provision for parties to terminate earlier.

3. Legal Considerations

- 3.1 It is necessary to formally delegate Trading Standards functions to Devon County Council under Section 13 and 19 of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000. This needs to be done by making an amendment to the Leaders Scheme of Delegation.
- 3.2 The proposed wording of the amendment is as set out in Appendix A
- 3.2 Any future Trading Standards prosecutions will be undertaken by Devon County Council with no liability for costs to Plymouth City Council.

4. Delegation to Executive of Birmingham City Council

- 4.1 The delegation to the Executive of Birmingham City Council of the power to discharge the functions and enforcement part 3 of the Consumer Credit Act 1974 to carry out enforcement of illegal money lending is no longer required as this legislation has been repealed so the reference to this in paragraph 8 of the Leaders Scheme of Delegation should be deleted.

5. Recommendations

- 5.1 To approve the governance arrangements in relation to the trading standards joint service in line with the recommendation from cabinet dated 15 September 2020 and as a consequence request the Leader to -
- 5.2 Amend the Leader's Scheme of Delegation to delegate to Devon County Council the ability to undertake Trading Standards functions on behalf of Plymouth City Council as part of the

“Heart of the South West Trading Standards Service”, effective from 1 April 2021 and remaining in place for the duration of the legal agreement

- 5.3 Amend the Leader’s Scheme of Delegation to delete the delegation to the Executive of Birmingham City Council, as this is no longer required

APPENDIX A

WORDING FOR ADDITION TO LEADERS SCHEME OF DELEGATION:

Delegation to Devon County Council for Heart of the South West Trading Standards Service

Plymouth City Council has entered into an agreement with Devon County Council for them to become the lead and employing authority of a joint Trading Standards Service for Devon County Council, Somerset City Council, Torbay City Council and Plymouth City Council, known as ‘Heart of the South West Trading Standards Service’.

To facilitate this the Leader has delegated to Devon County Council the executive functions and powers calculated to facilitate, incidental to or conducive to the discharge of the functions outlined in the joint agreement to carry out the Trading Standards Service on behalf of Plymouth City Council

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