

Wiltshire Council

Implementation Executive

19 March 2008

Control of Disposals, Contracts and Reserves

The Purpose of the Report

1. To report on the current position regarding the control of disposal, contracts and reserves by District Councils following the direction made under Section 24 of the Local Government and Public Involvement in Health Act 2007 by the Secretary of State.

Background

2. Sections 24-30 of the Local Government and Public Involvement in Health Act 2007 give the Secretary of State powers to control the disposal of assets and the use of reserves.
3. The Act provides that the Secretary of State can make a direction requiring relevant authorities to obtain consent. The Secretary of State has issued a direction that came into effect on 4 March 2008. The direction made under Section 24 of the Local Government and Public Involvement in Health Act 2007 is attached as Appendix 1. The effect of this direction is that, in most instances, disposals or contracts falling within the terms of the direction require the consent of the County Council before the District Council can proceed, otherwise the arrangements are "void".
4. As is explained in the letter from the Departments for Communities and Local Government accompanying the direction, (attached as Appendix 2), the giving of consent is a transitional function of the Wiltshire Council. That is to say it is "...preparing for and facilitating the economic, effective, efficient and timely transfer of the District Councils' functions, property, rights and liabilities...". Therefore it is a matter which falls to the Implementation Executive. Accordingly the County Council will exercise this function through the Implementation Executive.
5. In practice, the order could be quite draconian and if suitable arrangements are not put in place, the day to day business of the District Councils could be prejudiced. There are two considerations.
 1. Ensuring the district councils have sufficient authority to proceed without interference in the day to day business of the authority.

2. Ensuring that there is a mechanism which can deal with such approvals as may be necessary as expeditiously as possible which fall outside of the category above.
6. There is power for the County Council to issue general consents for categories of contracts to ensure that the day to day business of district councils is not interrupted. District Councils have been asked to propose the terms in which they would like any general consent order to be framed.
7. In order to allow these matters to be dealt with expeditiously it is recommended that the power to agree both the terms of the general consents and individual consents on a case by case basis should be delegated to the Chief Executive of the County Council. It is proposed that there should be a report to each meeting of the Implementation Executive reporting the consents that have been given, and those which he feels, in accordance with the usual delegation arrangements, should remain reserved to the Implementation Executive.

Risk Assessment

8. There are essentially two conflicting risks. The risk of protecting the resources which will transfer to the new authority, weighed against the risk that an unduly restrictive approach will impact adversely upon the provision of day to day services. The proposed balance between the general and specific consents, together with the delegation to the County Council's head of paid service should mitigate both these risks.

Equalities impact of the Proposal

9. None have been identified.

Financial Implications

10. These are explicit within this report.

Legal Implications

11. These are explicit within this report.

Reason for proposal

12. To put into place arrangements to ensure appropriate consent can be given in a timely manner to District Councils to protect resources without adverse impact upon the provision of day to day services.

Proposals

13. The Implementation Executive is asked to:

- i. delegate to the County Council's Chief Executive power to make both general and specific consents under the direction made under Section 24 of the Local Government and Public Involvement in Health Act 2004 issued on 29 February 2008 and coming into force on 4 March 2008.
- ii. Receive a consolidated report at each meeting on the general and specific consents exercised in the preceding period

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Unpublished Documents relied upon in the Preparation of this Report

None.

Environmental Impact of the Recommendations contained in this Report

None.