

Cherwell District Council

Council

16 July 2018

<p>Amendment to the Constitution and Officer Scheme of Delegation – Cherwell Community Lottery</p>

Report of Executive Director: Wellbeing

This report is public

Purpose of report

To recommend a change to the Council's scheme of delegation, giving the Assistant Director – Communities, specific responsibility for running the Council's Community Lottery.

1.0 Recommendations

The meeting is recommended:

- 1.1 To delegate responsibility for running the Cherwell Community Lottery to the Assistant Director – Communities
- 1.2 To delegate authority to the Assistant Director – Law & Governance to amend the Constitution and the Scheme of Delegation to reflect 1.1 above.

2.0 Introduction

- 2.1 On 5 December 2016, Executive resolved to launch an online and fully automated Cherwell Community Lottery that will help fund discretionary support to voluntary and community (VCS) organisations active in Cherwell and to enable such organisations to raise funds directly for themselves.
- 2.2 The Council has contracted with Gatherwell Ltd, a registered External Lottery Manager, to undertake the day-to-day running of the Lottery.
- 2.3 At its meeting on 2 July 2018, Executive approved a Lottery Policy and associated measures which would enable the Council to apply to The Gambling Commission for a Lottery Operators Licence. The Executive also recommended Full Council delegate responsibility for running the Cherwell Community Lottery to the Assistant Director – Communities.

3.0 Report Details

- 3.1 Authority for a council to operate a lottery derives from the Gambling Act 2005. The Council's constitution (May 2018) provides for the Licensing Committee to deal with all matters under the Gambling Act 2005, which is delegated under the Officer Scheme of Delegation to the Assistant Director – Environmental Health and Licensing
- 3.2 As the Council now intends to operate a lottery for the purpose of providing discretionary support to VCS organisations (as opposed to carrying out the council's regulatory functions under the Gambling Act 2005), it is recommended that the Assistant Director – Communities should be made specifically responsible for the Lottery and delegated the necessary authority in respect thereof.

4.0 Conclusion and Reasons for Recommendations

- 4.1 Explicit delegation to the Assistant Director – Communities draws a clear line between the council's licensing / enforcement duties and its community development functions.

5.0 Alternative Options and Reasons for Rejection

- 5.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To not delegate authority for the Lottery to the Assistant Director – Communities – This would lead to two service directorates being involved in the Lottery whereby the day-to-day running of the Lottery would rest with Communities while overall responsibility for the Lottery would remain with Public Health and Licensing. This is considered likely to result in 'disconnect' and confusion.

6.0 Implications

Financial and Resource Implications

- 6.1 There are no direct financial implications from this report as this specifically relates to ensuring that the correct delegations exist to effectively run the lottery. The financial implications of the contract with Gatherwell Ltd to undertake the day-to-day running of the Lottery have already been considered in a separate report and are not affected by the decisions here.

Comments checked by:

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Legal Implications

- 6.2 The Council is empowered to establish a lottery pursuant to the Gambling Act 2005.

- 6.3 While the Council has contracted the management and day to day running of its lottery to Gatherwell Limited, an External Lottery Manager registered with the Gambling Commission, the Council retains overall responsibility for the lottery and compliance with the relevant legislation and regulations. The Council is required to have in place a Lottery Policy and to obtain from the Gambling Commission, a Lottery Operator Licence.
- 6.4 In accordance with the Constitution, the Licensing Committee Terms of Reference provides for the Licensing Committee:
- To deal with all matters which are the responsibility of the Council under the Gambling Act 2005 except those which are delegated to the Sub-Committee or Officers.*
- 6.5 The Constitution further provides for a Scheme of Delegation to Officers which specifies the extent to which the powers and duties of the Council are delegated to officers pursuant to the Local Government Act 1972, the Local Government Act 2000 and all such other powers which authorise such delegations. The Scheme of Delegation provides for the Assistant Director – Public Health & Licensing:
- To deal with all matters and exercise the Council's powers, including enforcement, under the Gambling Act 2005*
- 6.6 The delegation of a Gambling Act 2005 function, namely the Cherwell Community Lottery, to the Assistant Director Communities requires an amendment to the Constitution as regards the Licensing Committee Terms of Reference and the Officer Scheme of Delegation as regards the delegated authority of the Assistant Director – Environmental Health and Licensing and the Assistant Director – Communities.
- 6.7 If the Council is minded to resolve the recommendations at 1.0 and 1.1 above, the Assistant Director – Environmental Health and Licensing will retain delegated authority to deal with all matters and exercise the Council's powers, including enforcement, under the Gambling Act, save for in respect of the Cherwell Community Lottery. The Assistant Director – Communities will have delegated authority to deal with matters under the Gambling Act 2005 only in respect of the Cherwell Community Lottery.
- 6.8 Authority to amend the Constitution vis-a-vis the Licensing Committee Terms of Reference is reserved to the Council. The Constitution provides for Council:
- Adopting and changing the Constitution... and Agreeing and/ or amending the terms of reference and delegation for Executive Lead Members and Committees...*
- 6.9 If the Council is minded to resolve the recommendations at 1.0 and 1.1 above, the Assistant Director Law and Governance may give effect to the resolution and draft amendments to the relevant documents.

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7.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

CDC Business Plan Strategic Priority: Thriving Communities

Lead Councillor

Cllr Andrew McHugh, Lead Member for Health and Wellbeing

Document Information

Appendix No	Title
1	CDC Draft Gambling Policies with Procedures June 2018
Background Papers	
None	
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