

Report of the Monitoring Officer

Scheme of delegations

Summary

1. This report seeks Members' views on changes to the Officer scheme of delegations.

Background

2. The Officer scheme of delegations forms part of the Constitution. It has had minor amendments made in recent years but has not been subject to significant review for some time. The current joint administration committed to reviewing the Council's governance when it took control. In the light of that fact as well as the review of the Council directorates and senior management structure, it is an opportune time to have a more fundamental review.
3. The majority of powers covered by the Officer scheme of delegations relate to executive functions although some significant non-executive functions are also covered, including planning and licensing functions. For this reason the new scheme of delegations requires the approval of the Leader in so far as it relates to executive functions and full Council in respect of non-executive functions. The Leader and deputy Leader have requested the views of this Committee on the draft scheme which appears at Annex A.
4. Like the scheme it is intended to replace the draft scheme adopts the approach of giving Chief Officers the power to take any decision affecting their service area. This is then subject to controls in the scheme and elsewhere in the Constitution. This method of allocating powers is generally accepted as good practice since it avoids the need to list individual functions and allocate decisions making powers. Inevitably such an exercise leaves gaps.

5. Section one of the draft scheme deals with principles of Officer delegations. This largely reflects principles set out in the current Constitution. There are though three key changes:
 - Paragraph 1.3 which sets out that Officers must have regard to advice from the Monitoring Officer, the section 151 Officer and the Chief Executive.
 - Paragraph 1.7 gives Officers sets out circumstances in which Officers would be expected not to exercise delegated powers but instead refer the issue to Members
 - Paragraph 1.9 seeks to future proof the draft scheme so that changes in job title or the allocation of responsibilities do not require the scheme to be rewritten.
 - Paragraph 1.10 makes it clear that if an Officer cannot exercise their powers they can be exercised by a deputy
6. Section two deals with the powers of the Chief Executive. The existing scheme gives the Chief Executive full powers to perform his role but in rather a wordy way. This has been simplified in paragraph 2.4 to a power to undertake any other functions necessary for carrying out the role of the Chief Executive.
7. Section three deals with the appointment and powers of the Deputy Chief Executive and creates an expectation that a deputy will be appointed.
8. Section four deals with the powers of Directors. Currently they follow a standard format of delegating all powers to discharge functions of the Executive or Council in relation to named service areas. The areas named attempt to cover the Directorate. This is a problem when Directorates change. Paragraph 4.2 simplifies and makes transparent the fact that the starting point is for Directors to be able to exercise all powers relating to their directorates subject to the controls in the constitution. Confusingly the existing scheme lists a range of specific functions which are delegated to Officers as well as including the cross cutting powers. This has not been replicated in the draft.
9. Paragraph 4.3 is a new provision allowing a Director to exercise powers granted to their staff. This is most likely to apply where a specific decision has been delegated to a named Officer in respect of a particular project.

10. Section five is also new. It reflects the law in that not every administrative decision needs to have been specifically delegated. However, for transparency and the avoidance of doubt this section makes it clear that Officers have the powers necessary to perform their job roles.
11. Sections six and seven relating to the Monitoring Officer and Chief Finance Officer repeats, with only minor rewording, provisions currently included in the Articles section of the Constitution.
12. Section eight simply reflect legal provisions relating to the statutory scrutiny officer role which were not previously reflected in the Constitution.
13. Section nine largely reflects existing controls in the constitution on the exercise of delegated powers but brings them together for the first time. In accordance with paragraph 9.8 Executive Members may reserve decisions to themselves. The existing requirement that this power be exercised following consultation with the relevant Director has been removed. It has, however, been replaced by a requirement to exercise the power in writing.
14. Section nine also deals with controls over the exercise of delegated powers in relation to planning matters. Officers cannot deal with matters which are reserved to the Planning Committees or which have been referred to Committee in accordance with the call in arrangements. A review of these reserved matters is currently underway.

Analysis

15. An appropriate scheme of delegations is essential if decision making is to be both lawful and effective. There is a need to strike a balance between the requirement for efficient operational decision making against the desirability of ensuring political oversight of decisions for which Members may be held to account by the electorate.
16. The draft scheme seeks to achieve this balance by being clearer about the specific controls over Officer decision making and by setting out a series of principles to guide Officers as to circumstances in which they should decline to exercise their powers. The Leader and deputy Leader have indicated that they

would be particularly interested in the Committee's views as to whether these controls strike the right balance. Members may wish to consider in particular the arrangements for Executive oversight, whether the financial thresholds are at the right level and whether there are further matters which should be reserved to Members or upon which Members ought to be consulted.

Council Plan

17. Effective schemes of delegation support good governance and the delivery of the council's priorities.

Implications

18. **Legal** – as the report indicates the Leader is responsible for the allocation of executive decision making functions. Council is responsible for the allocation of non- executive decision making functions. The revised scheme of delegations will form part of the Council's constitution.

Risk Management

19. In approving a scheme of delegations the Council need to achieve a balance between the risk of hampering effective operational decision making by having too restrictive a scheme against the risk of loss of effective control, including political control, by having too loose a scheme.

Recommendations

20. Members are asked to recommend to the Leader and Council that the scheme of delegations at Annex A be adopted subject to such amendments as the Committee consider appropriate.

Reason: To ensure that an appropriate scheme of delegations is in place.

Contact Details

**Author and Chief
Officer responsible for
the report:**

Andy Docherty
Assistant Director
Telephone: 01904
551004

**Report
Approved**

Date

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Specialist Implications Officers

Not applicable

Wards Affected: Not applicable

All

For further information please contact the author of the report

Background Papers

None

Annex A

Draft scheme of delegations