

Council

21 July 2016

Report of the Monitoring Officer

Officer Scheme of Delegations

Summary

1. This report seeks Members' approval to a revised scheme of delegations to Officers.

Background

2. The Council's scheme of officer delegations forms part of the Constitution. So far as it relates to executive decision making the scheme is the responsibility of the Leader. Most Council decisions are executive decisions. In respect of those functions which are non –executive including the determination of planning and licensing applications, the scheme is the responsibility of full Council.
3. The proposed scheme has been considered by the current and former Leader and by the Deputy Leader. Before finally approving the scheme in relation to executive decision making the Leader has agreed to await the outcome of debate at Council
4. At their meeting held on 10th May 2016 Audit and Governance Committee recommended approval of the new draft scheme of delegations but invited Members of the Committee to make any further comment to the Monitoring Officer before the publication of the Council agenda. The report and supporting documents for that meeting are available here:
<http://modgov.york.gov.uk/ieListDocuments.aspx?CId=437&MIId=9646&Ver=4>
5. Comments have been received which have resulted in some minor changes to the draft scheme highlighted in the scheme annexed to the Audit and Governance Committee minutes.

6. Since the meeting of the Committee discussions have also taken place in relation to the call in scheme for planning applications. This is the scheme under which Members can request that applications which would otherwise be dealt with under Officer's delegated powers can instead be presented to Members.

7. It is proposed that the new call in provisions will be as follows:

The request to bring an application to the Planning Area Sub-Committee must be made:-

- i. by the Ward Councillor for the site of the application , and*
- ii. in writing to the Director of City and Environmental Services, the Assistant Director Development Services, Planning & Regeneration or Head of Development Services and Regeneration, and*
- iii. within the consultation or reconsideration period, and*
- iv. include the planning reason(s) for the request. (for the avoidance of doubt matters such as the loss of a private view, loss in value of a property or 'to allow the matter to be heard in a public arena' would not constitute valid planning reasons.*

If Council agrees this wording will replace the wording considered by Audit and Governance Committee and set out in paragraph 9.5 of the draft scheme annexed to the Audit and Governance Committee minutes.

8. It is important to achieve the right balance between the cases which are determined by Officers and those being presented to Committee. Councils' performance in handling planning applications is subject to considerable scrutiny and poor performance can lead to Ministerial intervention. The delays inherent in taking cases to Committee affect that performance. The proposed wording seeks to strike the right balance; in particular by ensuring that there is a local connection between the Councillor and the application being called in.

Analysis

9. 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. Audit and Governance Committee have considered and approved the scheme as presented with the exception of the new provisions in respect of the call in of planning applications.

Council Plan

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

Implications

11. **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

12. 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. Specific risks in relation to planning are described in the body of the report.

Recommendations

13. Further to the recommendation of Audit and Governance Committee Members are asked:
 - a) approve the scheme of delegations annexed to the Audit and Governance Committee minutes in so far as it relates to non-executive functions;
 - b) agree to the substitution of the wording set out in paragraph 7 above relating to planning call arrangements for the wording which

appears in paragraph 9.5 of the draft scheme of delegations attached to the Audit and Governance Committee minutes.

c) ask the Monitoring Officer to make the necessary constitutional changes.

Reason: To ensure the Council maintains and updates it's Scheme of Delegation appropriately.

Contact Details

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

Andy Docherty
Assistant Director
Telephone: 01904
551004

**Report
Approved**

Date 11th July 2016

Specialist Implications Officers

Not applicable

Wards Affected: Not applicable

All

For further information please contact the author of the report

Background Papers

None