

Committee: Governance, Audit and Performance Committee

Date: Thursday,
29 September

Title: Report regarding proposed changes in the scheme of delegations to officers

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Summary

1. This report is submitted to advise Members of proposed changes in the Council's scheme of delegation of functions to officers, regardless of whether the persons concerned hold a statutory office.

Recommendations

2. That Members recommend the revised scheme of delegation (Appendix A) for adoption by Full Council

Financial Implications

3. The risk and cost of potential legal challenge if action is taken under improperly delegated authority and loss is occasioned thereby.

Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection.
 - a. Existing scheme of delegations
 - b. Corporate Management Team Review March 2022 with appendices.
 - c. Draft new scheme of delegations

Impact

| | |
|---------------------------------|---|
| Communication/Consultation | None. |
| Community Safety | None |
| Equalities | None. |
| Health and Safety | None. |
| Human Rights/Legal Implications | Specific statutory roles are being brought in to the formal scheme of delegations in the interests of both openness and |

| | |
|-----------------------|--------------|
| | transparency |
| Sustainability | None. |
| Ward-specific impacts | None. |
| Workforce/Workplace | None. |

Situation

5. The Council's formal scheme of delegations was last reviewed in May 2019 and since then a) a number of statutory provisions have required the appointment of an individual charged with the oversight of functions thereunder b) there have been significant changes in the membership of the Council's Corporate Management Team and c) some Assistant Director roles that in reality have been in existence for some years are given formal Constitutional recognition.

6. The new scheme contains a preamble setting out the statutory authority under which delegations are made and specifically providing for the exercise of specific powers in the event of the absence of the person with whom the delegation normally rests. It also specifically provides for the recording of delegated decisions.

7. Following the retirement of the Council's Director of Public Services in November 2021 the Chief Executive carried out a review of the functioning of the Council's Corporate Management Team (Background papers item C). It was decided to delete this role and to upgrade the former role of Assistant Director: Planning to a full directorship; the other Assistant Directors formerly reporting to the Director of Public Services will now report directly to the Chief Executive. Members are referred to the organisational chart forming part of document C.

8. A number of statutory responsibilities have been specifically included within the list of delegations. A non-exhaustive list of these includes the roles of Electoral Registration Officer and Returning Officer under the Representation of the People Acts, the Senior Information Management Officer, the Money Laundering Officer and the Senior Responsible Officer under the Public Interest Disclosure Act.

9. Since the transport of children became a fully regulated activity under the Safeguarding of Vulnerable Groups Act 2006 in July 2020, given the numbers of Home to School Transport operators licensed by the Council it has also been decided to appoint a Local Authority Designated Officer under the Children Act 2004. This responsibility will be undertaken by the Safeguarding Officer who reports to Communities Manager within the Housing, Health and Communities Directorate.

10. Responsibilities under the Regulation of Investigatory Powers Act 2000 are the subject of a separate report.

11. A number of other functions have also been moved. Most significantly to date the responsibility for the Human Resources function has moved from the Assistant Director: Corporate Services to the Assistant Director: Business and Change

Management and the Council’s very modest role in the HGV licensing process, ie a right to object to an application for an operator’s licence, has been moved from Planning to Licensing. A further Assistant Director role has been created reporting to the S151 Officer and the some of the functions within Corporate Services area have been reallocated among those reporting to the S151 Officer.

12. It is recognised that there may be further changes in the Corporate Management Team and that in turn these may lead to amendments in the delegation scheme; however, this report sets out the position as it stands at the date hereof and the scheme will be kept under regular review.

13. Members are asked to consider the changes to the Council’s Scheme of Delegation (as contained in Part 3 of the Constitution - Responsibility for Functions) as set out in Appendix A to this report. Please note that black text denotes no proposed changes; coloured text denotes additional wording and text that has been struck through denotes deletion.

Risk Analysis

14.

| Risk | Likelihood | Impact | Mitigating actions |
|---|--|--|---|
| 2. Action may be undertaken without proper authority leaving the Council open to challenge. | 2 – Action being perceived as necessary and undertaken without first checking authority in place | 3 – Incorrect procedure in place leading to judicial quashing of decisions and the requirement to retake them: S84 Criminal Justice and Courts Act 2015 should not be relied upon. | Adopting and publicising the new delegations. |

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.