

WAVERLEY BOROUGH COUNCIL

EXECUTIVE – 7 FEBRUARY 2017

Title:

REVIEW OF WAVERLEY'S SCHEME OF DELEGATION AND CONSTITUTION

[Portfolio Holder: Cllr Julia Potts and Cllr Tom Martin]

[Wards Affected: All]

Summary and purpose:

This report recommends, in light of the findings and recommendations from the 2016 Strategic Review, that the planned review of the Council's Constitution and Scheme of Delegation (action 1.2 of the draft 2017/18 Policy and Governance Service Plan) commences straight away.

Accordingly, this report sets out a number of immediate recommendations for Council approval in respect of financial thresholds for virements and supplementary estimates and the need to gain Council approval for any change to the Council's staffing establishment.

Beyond this, the report sets out recommended principles for reviewing the Constitution and Scheme of Delegation in all other respects as well as a timetable for doing so. Officers will undertake the initial review and make recommendations for change and options for consideration by the Constitution SIG in the first instance.

How this report relates to the Council's Corporate Priorities:

The Council's Constitution and Scheme of Delegation relate to the full spectrum of the Council's activities so changes to it are likely to relate to all of the Council's Corporate Priorities. However, the aim of streamlining and simplifying the decision-making processes by fundamentally reviewing both documents will aim, in particular, to progress the Council's objectives of providing excellent **customer service** and achieving **value for money**.

Financial Implications:

There are no direct financial implications arising from this report. The proposals allow higher value spending decisions to be made by the Executive but expenditure still needs to be controlled within approved budgets.

Legal Implications:

There is scope for the Council to review and update both the Constitution and the Scheme of Delegation in order to support a number of the proposed actions within the Action Plan set out at Annexe 2. In doing so the Council must ensure that its democratic processes remain robust, transparent and ensures probity of governance at all times. The Council's Legal Services team has already advised Officers and Members that the Scheme of Delegation can be modernised in order to make it more

flexible, and that advice remains the same in the light of the subsequent recommendations within the Strategic Review.

1 Background

1.1 Like many local authorities, although Waverley has made incremental changes to the content and structure of its Constitution and Scheme of Delegation over time, it has not fundamentally reviewed either since the Local Government Act 2000 introduced Executive arrangements.

1.2 Officers advise that a fundamental review would be beneficial and for this reason the draft 2017/18 Policy and Governance Service Plan already includes a commitment to

‘Review and update the Council’s Constitution and Scheme of Delegation to promote and facilitate swifter and more responsive decision-making at Waverley, without compromising democratic integrity and accountability, transparency or risk management.’ (action 1.2)

1.3 The 2016 Strategic Review described the Council’s formal decision-making processes as ‘slow’ and ‘cumbersome’ and recommended that the scheme of delegation be ‘reviewed to improve speed of decision-making particularly on implementation matters where the substantive matter has already been approved and has the necessary budget provision.’

1.4 In light of this, it is recommended that the planned review of both the Constitution and the Scheme of Delegation begin earlier than planned. Accordingly, this report sets out a number of recommendations for immediate change in respect of financial thresholds for virements and supplementary estimates and the need to gain Council approval for any change to the Council’s staffing establishment. It also recommends a timetable for a more fundamental review and suggests what the principles of a more streamlined, flexible and simplified constitution and scheme of delegation should be.

2 Recommendations for immediate change (quick wins)

Financial thresholds

2.1 The Constitution currently reserves decisions relating to virements (transferring funds from one budget area to another) exceeding £50,000 and supplementary estimates (additional funds required within the financial year) exceeding £20,000 (or £50,000 if they relate to costs arising from either a civil emergency, a planning appeal or a planning enforcement action) for Council approval. This means that the Executive may currently only approve requests for virements or supplementary estimates if they do not breach these thresholds.

2.2 These thresholds are considered to be too low and, of course, inflation over time has and will continue to gradually increase the number of in-year budget matters that exceed them as the real value of money falls. This has a tangible impact on the Council’s ability to progress vital day-to-day matters swiftly

whilst Council approval is pending. The spirit of a Strong Leader and Executive model of governance is that the day to day decision-making should be handled by the Executive. Having too low a threshold for budget decisions potentially undermines this and also has the effect of inadvertently making items that should be subject to overview and scrutiny exempt from this. It is not unusual for Council's to have significantly higher thresholds for Executive approval.

- 2.3 It is therefore recommended that the thresholds are increased and in the interests of simplicity it is suggested that a new limit of £100,000 be applied in respect of virements and supplementary estimates regardless of why they arise.
- 2.4 The Local Government Act 2000 introduced a requirement to publish a Forward Plan and to identify key decisions. Waverley currently has a financial threshold of £20,000 or above. Again, this is judged to be too low and officers recommend it would be more proportionate and straightforward to also increase this to £100,000 in parallel with the other changes being proposed.

Changes to the staffing structure

- 2.5 Like other councils, Waverley's Constitution reserves the confirmation of Head of Paid Service and Director appointments to Council and this should not change. However, Waverley's constitution also currently requires Council approval for *any* addition or deletion of posts from the established staffing structure, regardless of whether or not the proposals would necessitate any changes to budgets. Again, this is regarded as being overly prescriptive and may lead to situations where day-to-day managerial matters relating to staffing are unnecessarily delayed by the need to seek full Council approval.
- 2.6 It is recommended that a clear distinction be drawn between staffing matters that have budget implications and those that do not and again that where there are budget implications that the proposed Executive threshold for decision-making up to £100,000 should apply so that only the most significant matters be escalated for Council approval.
- 2.7 It is recommended that where staffing changes are proposed that are not contained within existing controllable expenditure budgets and which are above the Executive threshold £100,000, then this should remain a matter for Council consideration.
- 2.8 It is recommended that where there are costs beyond existing agreed controllable budgets but these are £100,000 or less this should be a matter for Executive approval.
- 2.9 It is recommended that where the impact of proposed staffing changes can be contained within existing controllable expenditure budgets, this should not be something that requires Executive or Council approval but can be agreed directly by the relevant Head of Service or Director.

3 Recommended principles to guide a fundamental review of the Constitution and Scheme of Delegation

Principles of a revised constitution and scheme of delegation

3.1 The review will be lead by the Head of Policy and Governance (Monitoring Officer), the Borough Solicitor and the Democratic Services Manager (Deputy Monitoring Officer). Those officers recommend that the revised constitution and scheme of delegation should:

- Be shorter
- Be simpler
- Be easier to understand
- Facilitate quicker decision-making
- More easily accommodate future national legislative and local policy changes without always necessitating the addition of further specific points
- At least increase and not at all decrease the quality, integrity, accountability, transparency of the Council's democratic processes.
- Be endorsed by both officers and members.

Individual Executive power?

3.2 The Council's constitution currently states that the Executive 'will function as a Committee, with collective responsibility for decisions made' and that 'Individual Executive Members will not be able to make decisions on behalf of the Council or the Executive.' This is not the only way of managing Executive arrangements. Many authorities have governance arrangements that allow individual portfolio holders to undertake decisions within certain parameters. The 2016 Strategic Review raised the question of whether more power should be delegated 'directly to Executive Members' (Cratus report paragraph 32).

3.3 Whereas, in general, officers will aim to make definitive recommendations to the Constitution SIG and the Executive in respect of changes to the Council's Constitution and Scheme of Delegation, in respect of this question officers will provide advice and an options analysis in respect of this question and seek the view of members on whether or not they would be interested in pursuing it.

4 Recommended timetable

Recommend changes to Council in respect of financial thresholds for virements and supplementary estimates and the addition and deletion of posts from the staffing establishment	Today (recommendations 1-4 in this report)
Research best practice examples of constitutions and schemes of delegation in place at other authorities.	February / March
Undertake a desktop review of both documents and make definitive recommendations for change for consideration by the Constitution Special Interest Group (SIG).	February / March

Prepare briefing and options analysis in respect of individual executive authority for consideration by the Constitution Special Interest Group (SIG).	February / March
Constitution SIG	Date in March TBC
Executive	4 April
Full Council	25 April

Recommendation

It is recommended that the Executive:

1. recommends to Council that paragraph 4.01(b) within part 1 of the Constitution be amended so that Council approval is only needed in respect of virements and supplementary estimates, no matter what they relate to, over £100,000 (meaning that the Executive will be able to approve these so long as they are £100,000 or less);
2. recommends to Council that paragraph 1 of the Scheme of Delegation and the relevant sections of Finance Regulations be updated to reflect these new Executive limits of £100,000 for virements and supplementary estimates;
3. recommends to Council that paragraph 13.03(b)(i) within part 1 of the Constitution be amended to change the threshold for a key decision to £100,000;
4. recommends to Council that paragraph 4.02(n) within part 1 and paragraph B.11 of part 3 of the Constitution be amended to state that it will be a function of the Council to approve 'the addition or deletion of posts from the agreed permanent staffing levels where the costs of doing so do not fall within existing controllable expenditure budgets and where the changes have financial implications in excess of the Executive's threshold of up to £100,000'; and
5. agrees, subject to any amendments they wish to make, the recommended principles and timetable for a wider review of the Council's Constitution set out in sections 3 and 4 respectively.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

CONTACT OFFICER:

Name: Robin Taylor

Telephone: 01483 523108

E-mail: robin.taylor@waverley.gov.uk