

WAVERLEY BOROUGH COUNCIL

EXECUTIVE – 4 APRIL 2017

Title:

REVIEW OF SCHEME OF DELEGATION

[Portfolio Holder: Cllr Julia Potts]

[Wards Affected: All]

Summary and purpose:

The purpose of this report is to consider a revised Scheme of Delegation to officers in respect of the functions of the Council.

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 will be savings in officer and member time in amending the scheme to ensure it is kept up to date, as well as efficiency savings from officers being able to proceed with actions more quickly.

Legal Implications:

In order to function effectively, the Council (as a 'creature of statute') must ensure that its statutory powers and functions are effectively delegated down through its Executive and Committee structure and to officers, with functions and responsibilities lying at the appropriate level of delegation. It is unlawful for officers to act without correctly delegated powers. Therefore any failure to have in place an appropriate and accurate scheme of delegation means that any actions relating to undelegated or improperly delegated matters must be approved by the full Council. Such a situation is entirely impractical. Further, where action is taken and appropriate delegations are not in place, the Council could incur substantial legal costs.

The existing Scheme of Delegation, while never having rendered the Council with a legal claim or costs in respect of inappropriate delegations, is an old Scheme which has been adapted and revised over many years. The Scheme is also specific in nature, meaning that anything that is not included would need to be specifically authorised by full Council. This is, as set out above, impractical. Over the years the Scheme has become lengthy and unwieldy, and its specific nature means that Officers often find that they do not have authority to act without Council approval.

The revised Scheme of Delegation attached to this report turns this approach on its head and sets up an 'exception scheme', wherein all powers and functions are delegated down to Officers with the exception of any powers and functions that either must remain with a specific committee (or with full Council), or which the Council has previously decided must rest with Members. This approach to delegation is entirely lawful and has been adopted by local authorities across the country.

Introduction

1. The Scheme of Delegation to officers has been in existence for many years and has been added to and amended in an ad hoc manner, usually to reflect new or changing legislation. Despite these many revisions, the scheme has never been subject to a complete overhaul.
2. The current scheme, because it is detailed and specific, requires constant revision to keep it up to date and inevitably there are gaps in provision where it does not always cover every eventuality.
3. With the increasing speed of change, both external and internal, the Strategic Review identified a need for a flexible, generic and user-friendly Scheme of Delegation that can meet the needs of a modern local authority. As a result, the Scheme of Delegation has been re-written with a view to achieving these aims.
4. As the approach to the new scheme is very different to the existing scheme, it is not possible to show tracked changes to the original document. However, an audit trail of the migration of the existing delegations into the new scheme will be maintained for members to view.
5. Officers took a report to the Executive on 7 February 2017 setting out the principles of the review, recommending 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.

Research

6. In order to identify the best way forward for Waverley, officers undertook research into the format of the Schemes of Delegation at other and neighbouring authorities and whether they had recently undertaken any form of review. The findings are summarised at Annexe 1.
7. As a result of the findings, officers all agreed that the scheme recently introduced at Surrey Heath was consistent with the approach that was trying to be achieved at Waverley, and largely the proposed scheme set out at Annexe 2, reflects that of

Surrey Heath. Having spoken to their Democratic Services Manager, feedback on the transition to a revised scheme and its operation was positive from both the officer and member perspective, recognising the culture change that was needed. In the two years since it has been operating, the new scheme has been reported to be working much more effectively than the old style scheme, particularly in relation to Planning and Licensing matters.

The New Approach

8. The new approach to the Scheme provides for:
 - i. the migration of delegations from outdated function area headings, to the Statutory Officers and service areas to make the scheme more accessible;
 - ii. many of the delegations will be dealt with on an exceptions basis, with officers authorised to take all actions relating to a function with the exception of certain decisions that are reserved to a specific Committee or the Council;
 - iii. the removal of day to day management and administrative actions to include only actual decisions to be taken; and
 - iv. the removal of outdated and redundant delegations and where legislation has been superceded.

Other Matters

9. There have been some areas identified which have in the past incurred an unnecessary delay in decision-making and it was hoped that the revised Scheme of Delegation would be able to address these. In fact, as a result of checking the constitutional requirements, no specific action is required:-

- i. Planning Applications for Council-Owned Property

In the event that a service area of Waverley Borough Council wishes to take action relating to Council-owned land, property or premises that requires planning permission, historically common practice has been that approval to submit a planning application has been sought by a report to the Executive. However, there is no requirement to do this and so in future, officers can proceed with submitting planning applications without the need to seek Executive approval to do so.

- ii. Financial Virements

There is often uncertainty about the procedure to be followed when wishing to vire money between budgets. However, the Financial Regulations already set out both the procedure and the financial levels for officers to take action in terms of budget virements, and again officers can operate with more flexibility than they have perhaps been aware of in the past.

In view of the need for the Financial Regulations to be consistent with the provisions of the Scheme of Delegation, it is proposed that the Strategic Director – Finance and Resources, be authorised to review the Financial

Regulations and ensure their consistency with new principles agreed by the Council on 21 February 2017 and within this report. Similarly, the Contract Procedure Rules are also in the process of being reviewed and updated, and it is essential that these three constitutional documents are all cross-referenced.

Constitution SIG

10. The Constitution SIG met on 14 March 2017 to give consideration to the proposed Scheme of Delegation and was supportive, recognising that it was the right approach to take in order to underpin an efficient system where decisions are taken quickly. It was, however, noted that safeguards for operating such a scheme were important, and officers gave assurances that the scheme still allowed for matters to be referred to the Council, Executive and Committees at the request of officers or councillors, if appropriate. Identifying that the new way of working would bring with it additional responsibility for officers, the need for awareness raising and training was emphasised, in order to ensure the cultural change of the organisation could be driven forward effectively. Improved communication with ward councillors and portfolio holders in advance of decisions being taken would be fundamental to reassure councillors and address any issues of transparency.

Recommendation

It is recommended to the Executive and Council that

1. the revised Scheme of Delegation to officers, as set out at Annexe 2, be adopted;
2. the Strategic Director for Finance and Resources be authorised to amend the Financial Regulations and Contract Procedure Rules to bring them into line with the new Scheme of Delegation; and
3. a review of the effectiveness of the new Scheme be undertaken after 12 months of operation, or earlier if required, and any adjustments necessary be recommended to the Council at that time.

Background Papers

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

CONTACT OFFICERS:

Name:	Robin Taylor	Telephone:	(01483) 523108
		E-mail:	robin.taylor@waverley.gov.uk
Name:	Emma McQuillan	Telephone:	(01483) 523351
		E-mail:	emma.mcquillan@waverley.gov.uk
Name:	Daniel Bainbridge	Telephone:	(01483) 523235
		E-mail:	daniel.bainbridge@waverley.gov.uk