

WAVERLEY BOROUGH COUNCIL

COUNCIL

19 MARCH 2019

Title:

SCHEME OF DELEGATION – REVIEW

[Portfolio Holder: Cllr Julia Potts]

[Wards Affected: All]

Summary and purpose:

The Scheme of Delegation to Officers was comprehensively reviewed and revised in 2017. Officers have proposed revisions to the Scheme of Delegation, based on their experience of using the Scheme over the past 12 months.

The Standards Committee recommends to Council that the revised Scheme of Delegation is approved.

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

The Council's ability to make day-to-day decisions through its Scheme of Delegation is key to operating efficiently and effectively for Waverley customers.

Equality and Diversity Implications:

There are no equality and diversity implications.

Financial Implications:

There are no direct finance implications arising from the report.

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.

Background

1. The Scheme of Delegation to Officers of Council and Executive responsibilities enables the Council to operate on a day to day basis, without recourse to Council and its committees for routine decision-making.

2. Waverley adopted a new Scheme of Delegation to Officers on 4 April 2017, based on the principles that the scheme should:
 - Be shorter
 - Be simpler
 - Be easier to understand
 - Facilitate quicker decision-making
 - More easily accommodate future national legislative and local policy changes without necessarily requiring additional specific delegations
 - Increase the quality, integrity, accountability, and transparency of the Council's democratic processes
 - Be endorsed by both Officers and Councillors

3. Since its adoption, there have only been relatively minor revisions to the Scheme, which demonstrates that it is meeting day to day operational requirements.

Review

4. As part of an annual review, Officers have put forward a number of revisions to the Scheme that they have identified which would assist operational decision-making. The changes proposed are shown as tracked changes in the Draft Version 5 of the Scheme attached at Annexe 1, and are explained below:

General Principles	
2.2, 2.3, 3.5, and 4.3	Explicit confirmation that any Strategic Director may exercise the powers granted to the Chief Executive, either at the request of, or in the absence of, the Chief Executive.
Schedule of Authorisations	
5.1	The Chief Executive or any Strategic Director is authorised to issue Instruments of Appointment to the Head of Environmental Services ...
The Monitoring Officer	
4A (<i>New!</i>)	To consider and determine requests for dispensations under Section 33 of the Localism Act 2011, to clarify that the Monitoring Officer is the proper officer of the authority for this purpose.
The Section 151 Officer	
8A (<i>New!</i>)	To approve the adoption of new or increased fees and charges , after consultation with the Portfolio Holder for Finance, to enable the Council to adopt new fees and charges during the year without delay caused by submission to a Full Council meeting for approval. Full Council will continue to approve the complete schedule of fees and charges as part of the Annual Budget approval.
8B (<i>New!</i>)	Regulation 73 of the CIL Regulations allows the Council to accept the payment of part of a CIL liability in the form of one or more land transfers, representing 'payment in-kind'. The criteria

	<p>against which Waverley would assess an offer of such an in-kind payment have been agreed by Council and are set out in the <i>Phasing and CIL-in-kind policies</i>.</p> <p>The delegation to the S151 Officer in consultation with the Portfolio Holder for Finance, enables any application to pay CIL 'in-kind' rather than in cash to be considered and determined.</p>
Head of Customer and Corporate Services	
17A & 17B (New!)	The delegation to the Head of Customer and Corporate Services has been split to include the role of the Investment Advisory Board in making recommendations to the Executive on certain property transactions.
Head of Environmental Services	
18.3	Updating of relevant licensing legislation.
Head of Policy & Governance	
52D (New!)	In cases of prolonged illness or other unavoidable absence, the Head of Policy & Governance would be able to grant a continuing leave of absence to a councillor, to avoid a councillor being disqualified under s.85 of the Local Government Act 1972.
The Borough Solicitor	
77. Revised wording	Under the Data Protection Act 2018, there is no longer an automatic fee for Subject Access Requests, and we are only able to charge where a request is manifestly unfounded or excessive. The revised wording reflects the requirements of the new Act.

Conclusion

The Standards Committee has considered the proposed revisions carefully, and concluded that they do not remove any significant authority from Councillors and will facilitate efficient operation of council services.

Recommendation

The Standards Committee RECOMMENDS to Council that the revised Scheme of Delegation is approved.

Background Papers

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

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