

Decision Maker: GENERAL PURPOSES AND LICENSING COMMITTEE

Date: Thursday 19 September 2019

Decision Type: Non-Urgent Non-Executive Non-Key

Title: REVIEW OF THE SCHEME OF DELEGATION TO OFFICERS

Contact Officer: Graham Walton, Democratic Services Manager
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Chief Officer: Mark Bowen, Director of Corporate Services

Ward: All

1. Reason for report

- 1.1 At the Annual Council meeting each year a Scheme of Delegation to Officers Council approves the scheme of delegation for non-executive functions and notes the scheme of delegation for Executive functions submitted by the Leader. .. The Scheme is essential to the smooth working of the Council, as it provides the underlying legal basis for all officers to carry out their duties, serving the residents of Bromley on behalf of the Council. The Scheme is an appendix to the Council's Constitution. The Scheme was updated by Council on 8th May 2019, and again on 15th July 2019 to reflect the new officer structures - a copy of the latest version is attached. Members have requested an opportunity to review the Scheme of Delegation to Officers at this Committee.

2. **RECOMMENDATION**

The Committee is recommended to review the Scheme of Delegation to Officers of non-executive delegations, and note the intention to report the annual review of the Scheme to this Committee in future.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
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Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council:
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Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £358,740
 5. Source of funding: Revenue Budget
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Personnel

1. Number of staff (current and additional): 8 posts (6.79fte)
 2. If from existing staff resources, number of staff hours: Not Applicable
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Legal

1. Legal Requirement: Statutory Requirement: Local government Act 1972 and subsequent legislation
 2. Call-in: Not Applicable: This report does not involve an executive decision
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Procurement

1. Summary of Procurement Implications: Not Applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

- 3.1 The Scheme of Delegation to Officers sets out formal delegation of various powers to the Council's chief officers and their staff, and forms part of the Council's Constitution (Appendix 10). The Scheme is reviewed at least once a year, with a report being considered at the Council's annual meeting. Members have previously expressed interest about some aspects of the Scheme of Delegation, and this report addresses these issues.

Delegation to Members of the Council

- 3.2 The Scheme of Delegation to officers describes those powers given to Chief Officers and their staff to exercise on behalf of the Council. This is not to be confused with the Committees that the Council appoints to oversee non-executive functions (principally, this Committee and the Development Control Committee) or the Portfolio Holders appointed by the Leader to exercise executive power. Terms of Reference of Committees, and a summary of the responsibilities of each portfolio, can be found in Section 3 of the Council's Constitution. Powers delegated to officers derive from full Council or the Leader and not from Committees or Portfolio Holders, but Members can decide to withdraw delegation from officers in particular cases and exercise those functions themselves.

Layout and Structure of the Scheme

- 3.3 The Local Government Act 2000 established that most local authority powers would be "executive" (that is, exercisable by the Leader.) Some powers were excluded from executive control (for example, the powers to determine individual town planning and licensing applications) and these are known as "non-executive" powers. In the regulations, a small number of functions are described as "local choice" meaning that councils can choose to exercise them as either executive or non-executive; in Bromley, most local choice functions are non-executive. The Leader is responsible for the scheme of delegation for non-executive functions and neither this committee nor Council can put in place or amend arrangements for the delegation of Executive functions.
- 3.4 The current layout of the Scheme of Delegation dates from 2010, when it was amended to meet the requirements of the Local Government and Public Involvement in Health Act 2007. At this stage, officers considered whether it was necessary to have two schemes of delegation to officers - an executive scheme and a non-executive scheme. However, to avoid confusion and duplication it was considered that a joint scheme should be retained, but with an additional column in the main body of the Scheme (Section II (B)) that clarifies whether powers are delegated by the Council or by the Leader. In a few cases, powers may be delegated both by the Council and by the Leader. This is not ambiguous and should not be taken as leading to any confusion about who carries out the functions listed in the Scheme, as all functions are delegated to particular chief officers who are listed in the left-hand column.
- 3.5 Part II (B) of the Scheme sets out the powers delegated to officers by Portfolio, with an additional chapter on powers relating to Development Control, most of which are non-executive. This Committee is responsible for those powers that are non-executive and do not relate to town planning. Principally, these relate to environmental health and licensing matters (listed in the Public Protection and Enforcement chapter), and to some finance and human relations matters (listed in the Resources, Commissioning and Contract Management chapter.) The Committee can request officers to provide reports on functions within its terms of reference.

Reviewing the Scheme

- 3.6 As mentioned above, the Scheme of Delegation to officers is reviewed at least once a year to ensure that it is up to date (for example where legislation is amended or officer roles change), and to remove any minor errors. Any changes that go beyond routine updating are always

flagged in the covering report to Council. Where major changes occur it is sometimes necessary to bring forward reports outside this annual cycle (for example, at the full Council meeting on 15th July 2019, when the changes to the Council’s officer structures needed to be reflected in the Scheme.) Any major new legislation affecting how Council services are delivered will usually require a separate report to Members.

- 3.7 It is recognised that the annual Council meeting is not necessarily the best forum for detailed consideration of the Scheme, and it is intended that the annual review will in future be presented to this Committee first for recommendation to Council.

Non-Applicable Sections:	Impact on Vulnerable Adults and Children/Policy/Financial/Personnel/legal/Procurement
Background Documents: (Access via Contact Officer)	Reports to Council - 8 th May 2019 - To receive the Scheme of Delegation of Executive Functions from the Leader of the Council and to approve the Scheme of Delegation of Non-Executive Functions 15 th July 2019 - Review of Corporate Leadership Structure - Updates to the Constitution and scheme of Delegation to Officers