

Decision Maker: GENERAL PURPOSES AND LICENSING COMMITTEE

Date: Tuesday 21 September 2021

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: Ade Adetosoye OBE, Chief Executive

Ward: All

1. Reason for report

- 1.1 At its last meeting on 6th July 2021, the Committee established a Working Group to conduct a review of the Scheme of Delegation to Officers. The Working Group has met and has made recommendations to this Committee proposing that priority should be given to a complete re-draft of the Scheme.

2. **RECOMMENDATION**

Members are requested to consider the recommendations from the Working Group that the current Scheme of Delegation is not fit for purpose and should be re-drafted, and that additional funding should be provided if necessary to enable this additional work to be carried out.

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: Estimated Cost: Up to £15,000
 2. Ongoing costs: Non-Recurring Cost:
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £366k
 5. Source of funding: Revenue budget 2021/22 Central Contingency
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Personnel

1. Number of staff (current and additional): 6 (6.67fte)
 2. If from existing staff resources, number of staff hours: Not applicable
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Legal

1. Legal Requirement: Statutory Requirement:
 2. Call-in: Not Applicable: Non-executive matters are not subject to call-in.
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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? No
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

- 3.1 The Scheme of Delegation to Officers enables the smooth running of all Council services by setting out the legal basis for actions carried out by officers on behalf of the Council. All local authorities will have such a document, although the format and content of each authority's scheme may vary considerably. The Scheme is of necessity a lengthy and detailed document, a working reference document rather than a guide to services.
- 3.2 In 2012, Bromley's Scheme was updated to clarify whether matters were delegated from the Council, or from the Leader (essentially, whether actions were non-executive or executive) in response to the Localism Act 2011. The changes enabled the Council to continue with a single scheme. The impact of the Localism Act is that the majority of delegations are controlled personally by the Leader of the Council, and therefore cannot be changed by this Committee or even by full Council. If this Committee wishes to make changes to the Scheme it will need to seek the agreement of the Leader.
- 3.3 Other than the changes required by the Localism Act, Bromley's scheme has remained largely the same for many years, excepting occasion updates as legislation or Council structures have changed, usually by way of an annual review authorised by the Council's annual meeting.
- 3.4 At the last annual Council meeting on 19th May 2021 some concerns about the Scheme raised by two Members. As a result, this Committee considered a report at its meeting on 6th July 2021 setting out the legal context of the Scheme, and addressing five specific issues of concern from the annual meeting. One of these issues requires a small update to the Scheme.
- 3.5 The Committee concluded that the Scheme should be looked at in more detail and set up a Working Group – this comprised Councillors Stephen Wells (Chairman), Simon Fawthrop, Melanie Stevens and Angela Wilkins. The Working Group met on 7th September 2021, and compared Bromley's Scheme with that of other Councils, in particular LB Sutton and LB Bexley. The Working Group concluded that the current Bromley Scheme was not fit for purpose, and that a new Scheme should be drawn up based on the format of the LB Bexley scheme. The Working Group also made a number of comments on the desirable characteristics of a new scheme –
- The Scheme should follow a consistent and logical format and structure.
 - The Scheme should be more user-friendly, so that it is easier to find out who is responsible for each function.
 - The columns in the Scheme should be reversed, to put the column containing whether the power was delegated from the Council or the Leader first, followed by the column for who the power was delegated to. The Scheme would also need an extra column for the portfolio, if the current arrangement by portfolio was abandoned.
 - Each function should be tied into the relevant legislation wherever possible.
 - The Scheme should be clearer about how delegations can be withdrawn, scrutinised and called in.
 - The Scheme should require officers to inform ward members about decisions affecting their wards.
 - The Scheme should include more details about financial limits (although this is already covered in the Financial Regulations.)

- The limits of officer power should be more clearly delineated.
- The Scheme should be easy to keep updated.

The Working Group recognised that this would be a considerable piece of work to undertake, for which internal resources were not likely to be available. They therefore suggested that consideration be given to instructing an external consultant to draw up a new scheme.

4. FINANCIAL IMPLICATIONS

- 4.1 The cost of commissioning external support to draw up a new scheme of delegation is estimated to be up to £15,000. Although there is no specific budget provision for this, officers will seek to manage within the existing Democratic Services revenue budget in 2021/22. In the event that this is not possible, the Executive will be requested to approve a drawdown from Central Contingency of up to £15,000.

5. PERSONNEL IMPLICATIONS

- 5.1 The Scheme of Delegation forms part of the Council’s Constitution and is administered by the Democratic Services Team. There is limited scope for the Team to give priority to a substantial re-write of the Scheme of Delegation.

5. LEGAL IMPLICATIONS

- 6.1 The main power to delegate non-executive functions is set out in section 101 of the Local Government Act 1972. Section 9E of the Localism Act 2011 sets out the present position on executive delegations. The statutory provisions allow onward delegation in most cases – to sub-committees and to officers. Certain functions cannot be delegated, such as appointing the Mayor and setting the Council’s budget, and some functions can only be carried out by particular parts of the Council – such as certain licensing functions. In addition, a small number of matters - some staffing matters and surveillance authorisation under the Regulation of Investigatory Powers Act (RIPA) - are reserved by law to officers.

Non-Applicable Sections:	Impact on Vulnerable Adults and Children, Policy, Procurement
Background Documents: (Access via Contact Officer)	Scheme of Delegation to Officers – May 2021