

Report No.  
CSD22020

## London Borough of Bromley

### PART ONE - PUBLIC

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**Decision Maker:** GENERAL PURPOSES AND LICENSING COMMITTEE

**Date:** 8 February 2022

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

**Title:** REVIEW OF THE COUNCIL'S SCHEME OF DELEGATION

**Contact Officer:** Shupriya Iqbal, Assistant Director, Legal Services  
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**Chief Officer:** Tasnim Shawkat, Director of Corporate Services

**Ward:** All

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#### 1. Reason for report

1.1 To recommend a review of the Council's scheme of delegation. In order to allow lawful decision making by officers, the scheme of delegation needs to set out areas of responsibility clearly, it needs to be transparent and user friendly. It needs to be high-level but set out areas of limitation as appropriate. The current scheme needs to be updated to meet these requirements.

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#### 2. RECOMMENDATIONS

- 2.1 Agree that officers review of the scheme of delegation and agree that it needs to be drafted in a high-level and user friendly way instead of attempting to list every possible legislation, which becomes out of date quickly, makes the document unwieldy and less transparent
- 2.2 Members to discuss which area they would like to retain their delegation and decision making on to inform the review of the scheme of delegation.
- 2.3 Agree that officers will prepare a draft scheme of delegation and present it to this Committee for consideration as soon as practicable so that it can be approved by Council in May 2022.

2.4 Note that the scheme of delegation for non-executive functions will be a matter for full Council to approve and the Leader will be asked to approve the scheme of delegation for executive functions.

### Impact on Vulnerable Adults and Children

1. Summary of Impact: Not applicable
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### Corporate Policy

1. Policy Status: Existing Policy Further Details
  2. BBB Priority: Managing our Resources well
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### Financial

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

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

1. Legal Requirement: Statutory Requirement: Further Details Local Government Act 1972 , Local Government Act 2000, Local Authorities (Functions and Responsibilities) (England) Regulations 2000
  2. Call-in: Not Applicable:
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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):
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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** Under section 101 of the Local Government Act 1972 the Council may make arrangements for discharge of Council functions by officers. Similarly, under section 9E of the Local Government Act 2000 the Executive can make arrangements for discharge of Executive functions by officers. 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).

**3.2** The current scheme of delegation has not been substantially reviewed for some time and there is concern it is out of date and can benefit from a review to make it more high-level, more user friendly whilst meeting legal requirements and setting out clearly areas of responsibility and limitations. A scheme of delegation which aims to cover all eventualities and to list every possible legislation can be unwieldy, very restrictive and require continuous investment in time and resources to keep it up to date with changes in the law and circumstances. A high-level scheme of delegation on the other hand allows flexibility, ensures lawful delegation to catch changes in circumstances and ensures lawful and timely decisions can be made. A review and redraft of the scheme of delegation will also aim to make it more user friendly and transparent. Members will retain control if clear parameters or limitations are expressly stated within the scheme of delegation.

**3.3** The risk of not having a clear and robust scheme of delegation in place is that decisions may not be made by the right people leading to legal challenge to action being taken by the Council. It will also lead to lack of accountability if delegations are not clearly set out.

**3.4** Under Local Authorities (Functions and Responsibilities (England) Regulations 2000 where executive arrangements are in place the law sets out distinct separation between the Executive and the rest of the Council in relation to how responsibility for local authority functions is exercised. This separation between Executive functions and the rest of the Council is established by exception. The default position is that every function of the local authority is an executive function unless it is one of a number of exceptions that are specifically listed.

**3.5** The Council's Scheme of delegation is normally updated for approval at the Council's annual meeting each year, although under the Local Government Act 2000 any executive powers delegated to officers have to be delegated not by the Council, but by the Leader of the Council, and it is open to the Leader to table changes to the executive scheme. The executive or non-executive origin of each delegation in the scheme is reflected in a column which indicates whether each individual delegation derives from the Leader or from Council, or both.

**3.6** In 2021 this Committee set up a Working Group to consider the Scheme of Delegation - the Working Group met on 7<sup>th</sup> September 2021 and recommended that a new Scheme be drawn up. Many of the principles suggested by the Working Group, for example a more transparent and consistent structure, a more user-friendly approach and clear limits to officer powers, can be incorporated into a more modern, revised scheme.

#### 4. LEGAL IMPLICATIONS

4.1 The power for local authorities to delegate functions to officers is contained in Section 101 of the Local Government Act 1972 in respect of Council function and section 9E of Local Government Act 2000 in respect of Executive function. The proposed review of Scheme of Delegation will ensure that the Council has in place a fit for purpose scheme to ensure officers can correctly and legally exercise their powers. It will also ensure that decisions can be taken by officers on behalf of the Council and the Executive in a timely and efficient manner whilst maintaining full accountability to members.

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