

Decision Maker: COUNCIL

Date: Wednesday 10 May 2023

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

Title: SCHEME OF DELEGATION TO OFFICERS

Contact Officer: Graham Walton, Democratic Services Manager
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Chief Officer: Tasnim Shawkat, Director of Corporate Services and Governance

Ward: All

1. Reason for decision/report and options

- 1.1 At the annual meeting of the Council each year a Scheme of Delegation to Officers is approved by Council and the Leader. The Scheme is an appendix to the Council's Constitution. Each year the Scheme is updated to address any changes of legislation or officer responsibilities and correct any minor errors. The Scheme was substantially revised and simplified in 2022, and no new delegation or changes of substance are proposed. The revised Scheme is attached as Appendix A.

2. RECOMMENDATIONS

- (1) That the Scheme of Delegations to Officers in respect of non-executive functions be approved.
- (2) That the Scheme of Delegation to Officers in respect of executive functions be received from the Leader of the Council.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
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Transformation Policy

1. Policy Status: Existing Policy
 2. Making Bromley Even Better Priority (*delete as appropriate*):
(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
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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: £366k
 5. Source of funding: Revenue Budget
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Personnel

1. Number of staff (*current and additional*): 6
 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, including the Local Government and Public Involvement in Health Act 2007.
 2. Call-in: Not Applicable: Council decisions are not subject to call-in
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Procurement

1. Summary of Procurement Implications: Not Applicable
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Property

1. Summary of Property Implications: Not Applicable
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Not Applicable
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Impact on the Local Economy

1. Summary of Local Economy Implications: Not Applicable
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Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: Not Applicable
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Customer Impact

1. Estimated number of users or customers (*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 Section 101 of the Local Government Act 1972 enables the Council to make arrangements for the 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 11).
- 3.2 The Scheme enables Council services to function on a day to day basis. 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 challenges to action being taken by the Council. It will also lead to lack of accountability if delegations are not clearly set out.
- 3.3 The Scheme of Delegation was substantially revised in 2022 under the direction of the General Purposes and Licensing Committee and a Member Working Group. The previous scheme was a large and unwieldy document. The review created a more user-friendly, transparent and high-level document setting clear limits for officers.
- 3.4 Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, where executive arrangements are in place the law sets out a 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 in the Functions Regulations.
- 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 at any time. This year, the Scheme has been corrected and updated as necessary (for example, a contents page has been added), but no major changes have been made and no new delegation of substance is proposed.

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 functions and section 9E of Local Government Act 2000 in respect of executive functions. The Scheme of Delegation ensures that the Council has in place a fit for purpose scheme to ensure officers can correctly and legally exercise their powers. It also ensures 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.

Non-Applicable Headings:	Impact on Vulnerable Adults and Children/Policy/Finance/Personnel/Legal/Procurement/Property/Carbon Reduction/Impact on the Local Economy/Impact on Health and Wellbeing/Customer Impact/Ward Councillors
Background Documents: (Access via Contact Officer)	Scheme of Delegation to Officers – May 2022 Report to Annual Council meeting – 18 May 2022