

DRAFT 22.8.13

# A Review of Delegated Authorities

by a Working Group of the Overview and Scrutiny  
Commission



August 2013

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## Acknowledgements

The Working Group would like to express its thanks and appreciation to the Leader and the following officers of Bracknell Forest Council for their co-operation and time. All those who have participated in the review have been thanked for their contribution and received a copy of this report if wished.

Councillor Paul Bettison	Leader of the Council
Timothy Wheadon	Chief Executive
Glyn Jones	Director of Adult Social Care, Health and Housing
Dr Janette Karklins	Director, Children, Young People and Learning
Vincent Paliczka	Director, Environment, Culture and Communities
Alison Sanders	Director of Corporate Services
Alex Jack	Borough Solicitor
Alan Nash	Borough Treasurer
Victor Nicholls	Assistant Chief Executive
Neil Haddock	Chief Officer: Performance and Resources
Richard Beaumont	Head of Overview and Scrutiny
Paul Clark	Head of Departmental Finance: Children, Young People and Learning
Hilary Hall	Head of Performance and Resources
Simon Heard	Assistant Borough Solicitor

## **1. Foreword by the Lead Member**

- 1.1 The Overview and Scrutiny Commission selected this review as no formal in-depth review of the Scheme of Delegated Authorities had been undertaken by the authority for over ten years. Also, because of the importance and substantial spending power entrusted to the scheme which is so vital to the efficient governance of the authority.
- 1.2 It was quickly apparent that we had taken on an enormous task which touched every corner of the organisation on a daily basis. Hence the time it has taken to complete the task.
- 1.3 Every department committed itself fully to the review, this created many interesting discussions. I feel that everyone, from all sides, learnt something.
- 1.4 The working group's conclusion is one of high confidence in the Scheme of Delegated Authorities. The recommendations I hope will be supported. They are mainly centred around good housekeeping and establishing a consistent approach to where we keep the registers and how we show and describe the delegated powers.
- 1.5 I wish to express thanks to my fellow councillors who worked with me on this review and to ALL the officers who supported us throughout the process.
- 1.6 I would like to commend the findings and recommendations to the Leader of the Council, Councillor Paul Bettison.

Councillor Robert Angell  
Lead Working Group Member

## 2. Executive Summary

- 2.1 Bracknell Forest Council ('the Council'), like other local authorities, delivers a wide range of public services, from education to planning control, and from waste collection to maintaining roads, to name but a few. Delivering those services and other aspects of running the Council requires many diverse decisions to be made on a daily basis.
- 2.2 The law vests much of the Council's decision-making power in the Councillor who is elected by the full Council to be its Leader. The large number of decisions which have to be made, together with the fact that some require specialist professional skills and knowledge, mean that it would be completely impracticable for one person – or even all the Council's 'Executive' councillors appointed by the Leader - to make all the Council's day-to-day decisions. Instead, and in common with every other local authority, the Council uses an extensive set of delegated authorities, empowering specified councillors and officers to take decisions on behalf of the Council in designated areas of activity, and within set boundaries and limits.
- 2.3 As part of its work programme for 2012/13, the Overview and Scrutiny ('O&S') Commission decided to form a Working Group to review the Council's scheme of delegation and the extent of powers delegated to Executive Members and officers, and their application in practice. The reasons why the Commission decided to carry out this review were to:
- Consider afresh an important part of the Council's governance arrangements, which was last fundamentally reviewed over ten years ago
  - Build Members' knowledge and understanding
  - Ensure the delegated authority arrangements facilitate timely, effective and accountable decision making, and
  - Identify any improvements needed to the current arrangements
- 2.4 This report describes the work of the Working Group Between February and July 2013, and it is organised in the following sections:
- Part 3 Gives background information in respect of delegated authorities, and summarises how we set about our review.
- Part 4 Summarises the information and evidence gathered by the Working Group.
- Part 5 Contains the conclusions we have reached following our review, on which we have based a number of recommendations to the Council's Executive.
- At the end of our report is a glossary of terms used and appendices containing detailed supporting information.
- 2.5 Our overall conclusion is that the Council has sound and well understood arrangements in place for delegated authorities, achieving

an appropriate balance between the Executive taking responsibility, yet empowering officers to get on with their jobs, delivering essential public services. But we have recommended some improvements concerning:

- Correcting two anomalies in the published information on the responsibilities of each Executive Member
- Standardising the layout and storage of delegated authority schedules
- Enhancing the arrangements to ensure delegated authority schedules are regularly reviewed
- Increasing the delegated authority limit for capital works to schools
- Achieving more consistency over delegated authorities for newly-appointed staff
- Expanding the scheme of delegation to recognise the special handling required for sensitive or controversial decisions
- Introducing regular information to Ward Councillors on significant decisions and other issues affecting their local areas
- Ensuring more consistency on authorities to seek quotations for purchases, and
- Improving the transparency of the awarding of contracts.

2.6 Members of the Working Group hope that this report will be well received and we look forward to receiving responses to its recommendations.

2.7 The Working Group comprised:

Councillor Angell (Lead Member)  
Councillor Mrs Birch  
Councillor Finnie  
Councillor Gbadebo  
Councillor Leake

### 3. Background

- 3.1 Delegation (or passing down) is the partnership of authority and responsibility to another person (normally from a manager to a subordinate) to carry out specific activities. It is one of the core concepts of management leadership. The person who delegated the work remains accountable for the outcome of the delegated work. Delegation empowers a subordinate to make decisions, i.e. it is a shift of decision-making authority from one organisational level to a lower one. Delegation, if properly done, is not abdication. With proper safeguards, delegation is good and can save money and time, help in building skills, and motivate people. Poor delegation, on the other hand, might cause frustration, errors and confusion to all the involved parties

#### Legal Requirements Applying to Delegation in Local Authorities

- 3.2 The extent to which and the way in which local authorities can delegate their functions is governed by legislation. There is also a limited body of case law concerning the delegation of local authority functions.
- 3.3 In relatively exceptional cases, statutes require that a decision should be taken by full Council. Examples are:-
- setting of Council Tax (Section 67 Local Government Finance Act 1992)
  - approval of Statement of Licensing Policy (Section 7 Licensing Act 2003)
  - approval of major plans and policies referred to in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (“the 2000 Regulations”)
  - change in Council governance arrangements (Local Government Act 2000)
- 3.4 Other than Licensing functions (which are dealt with by the 2003 Act), the legal framework applicable to the delegation of other functions depends upon whether the function is an Executive function or a non-Executive function. Each framework is considered separately below. The Local Government Act 2000 stipulates that all functions of the Council are Executive functions unless Regulations by the Secretary of State provide otherwise. The 2000 Regulations (as frequently amended) are the relevant regulations. These regulations contain a long list of functions (mainly Development Control, non-liquor licensing, election functions and highways) which are “pure” non-Executive functions. They (the 2000 Regulations) also contain a list of “hybrid” functions which are in part the responsibility of the Executive and in part the responsibility of Council (e.g. in connection with the Local Plan the Executive has responsibility for formulating proposals whilst full Council has responsibility for final adoption).
- 3.5 The Local Government Act 2000 provides that the Leader may discharge Executive functions or may arrange for those functions (or any of them) to be discharged by:-
- the Executive

- another Member of the Executive
- a committee of the Executive
- an officer

In turn, the Executive may delegate to a committee of the Executive or an officer (but, perhaps by legislative oversight, not to an individual Executive Member). An individual Executive Member may delegate on to an officer.

### Non-Executive Functions

3.6 The relevant legislation is Section 101 of the Local Government Act 1972 which provides that a Council may arrange for the discharge of any of its functions by:-

- a committee
- a sub-committee
- an officer
- another local authority

If Council delegates to a committee then the committee may in turn delegate to a sub-committee or to an officer. A sub-committee may in turn delegate to an officer.

3.7 If Council/a committee/a sub-committee delegate a decision then the body which has delegated the decision still retains the legal capacity to make the decision. Accordingly, it is lawful, for example, for a committee decision to be referred to full Council.

### Delegation to Individual Members

3.8 For Executive functions, decisions may be delegated to individual Executive Members. In respect of non-Executive functions, Section 101 of the 1972 Act does not permit delegation of functions to individual Members. It is lawful under Section 101 to delegate decisions to an officer and to require that before taking the decision the officer should consult with a Member (e.g. the Chairman of a Committee). However, the decision must be that of the officer i.e. it would be unlawful for the officer to permit the Member to dictate what decision should be taken.

3.9 Section 236 of the Local Government and Public Involvement in Health Act 2007 does permit decisions to be taken by an individual Ward Member to the extent that the relevant function is exercisable in relation to the ward.

3.10 Certain types of decision must by law be delegated to an officer rather than being determined by Members. These include the appointment and dismissal of officers below Deputy Chief Officer level, discharge of the duties of the Returning Officer in elections and the 'Proper Officer' functions (For example the Monitoring Officer and the Head of Paid Service). For the great majority of local authority functions, it is a matter of local choice for the Council whether they are exercised by Members or delegated to officers.

### Delegation Arrangements in Bracknell Forest Council

3.11 The Council's constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that the Council

operates in an efficient, transparent and accountable manner. The Constitution describes the overall areas of responsibility for Members of the Executive (termed 'Cabinet' in some local authorities) and for Committees and Sub-Committees. However, to ensure that the Council runs efficiently, it is necessary for some decisions to be taken by officers. Part 2 of the Constitution<sup>1</sup> sets out which officers are empowered to undertake which decisions or actions on behalf of the Council.

- 3.12 The basic philosophy behind the scheme of delegation has remained unchanged since the Council attained unitary<sup>2</sup> status in 1998, even though the legislative framework within which it operates was changed by the Local Government Act 2000. This philosophy has been to put Members firmly in control and accountable for the strategic direction and policies of the Council, underpinned with a day to day decision making process by officers that is as streamlined as possible. The performance management system is a key part of this, with officers producing Quarterly Service Reports (QSRs) to provide information to Members on progress against the key policies and objectives they have set. All major strategic decisions are taken by the Executive or, where they are part of the 'Policy Framework' or of over-riding political significance, by full Council.
- 3.13 At the annual meeting of the Council, the Leader presents a written record of delegations made by him or her for inclusion in the Council's Scheme of Delegation. The document presented by the Leader contains the following information about Executive functions in relation to the coming municipal year:
- (i) the names, addresses and wards of the people appointed to the Executive by the Leader;
  - (ii) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
  - (iii) the Terms of Reference and Constitution of such Executive Committees as the Leader appoints and the names of Executive Members appointed to them;
  - (iv) the nature and extent of any delegation of Executive functions to any other authority or any joint arrangements, and the names of those Executive Members appointed to any joint Committee for the coming municipal year.

At any time after the annual meeting of the Council, the Leader may, by written notice to the Proper Officer, alter the delegations made by him or her. The Leader may at any time during the municipal year constitute a Committee of the Executive by notice in writing to the Proper Officer setting out the information referred to in (ii) above. Any alterations to the delegations are then reported to the next meeting of the Council.

### The Executive

- 3.14 The Executive is appointed by the Leader of the Council and may have between two and nine members who will normally be charged with responsibility for specific executive functions - their portfolio. The main

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<sup>1</sup> Part 2 on 'Responsibility for Decisions' can be viewed at <http://democratic.bracknell-forest.gov.uk/ieListDocuments.aspx?CId=527&MIId=5022&Ver=4&Info=1>

<sup>2</sup> A Unitary Council has the combined responsibilities of both a county council and a district council

functions of the Leader and the Executive are to develop and propose the policy framework to the Council, and to be responsible for all Executive decision-making within the policy framework by the Executive as a whole, individual portfolio holders or a committee of the executive. The Executive may appoint non-Executive councillors to assist with policy development. Meetings will normally be held in public, but may be held in private if no "key" decisions are to be made. All decisions made by members of the Executive must be made in compliance with the council's financial, contracts, and all other relevant procedure rules as set out in the constitution. This provides the framework within which decisions are made.

- 3.15 Each portfolio holder is delegated a set of responsibilities by the Leader – these are reported to the annual Council meeting. Potentially, all the decisions within the portfolio could be taken by the individual Executive member, as long as they are within the policy and financial framework already set out. However, in reality approximately half of decisions are taken by the individual Executive member, and half by the whole Executive. In 2012, a total of 185 decisions were made – 91 were made by the whole Executive, and 94 were made by individual Executive members. The number of decisions across the council varies:

**Executive and Executive Member Decisions by Department - 2012**

	<b>Total</b>
Adult Social Care, Health & Housing	32
Children, Young People & Learning	57
Chief Executive/Corporate Services	51
Environment Culture & Committees	45
	185

All decisions taken are published and subject to call-in, whether the decision is made by the whole Executive, or an individual Executive member.

Delegations to Officers

- 3.16 Matters delegated to the most senior officers and the 'Proper officers' are set out in the Constitution. Other officers' delegated authorities are set out in schedules approved by the Chief Executive and Directors of each of the Council's departments.

Approach to the Working Group's Review

- 3.17 The Working Group agreed the key objectives of the review, and its approach to gathering information through written questions, meetings and research, at the outset. This is recorded in the standard scoping document for O&S reviews, at Appendix 1.

## 4. Investigation and Information Gathering

### Introductory Review Work

- 4.1 On **7 February 2013**, the Working Group ('the Group') received an introductory briefing about delegated authorities (DA) from Alex Jack (AJ) Borough Solicitor, Alan Nash (AN) Borough Treasurer, and Simon Heard (SH) Assistant Borough Solicitor. The information is summarised in the Background section 3 of this report. The Group also discussed the approach to be taken by the Working Group, which was subsequently formalised in the standard scoping document for Overview and Scrutiny reviews, attached at Appendix 1.
- 4.2 The Working Group decided that its main occupation would be to embark on a series of meetings reviewing DAs from the Leader, also within each department, to be further informed by asking for written responses to a standardised set of questions, in advance. The responses we received are shown in Appendix 2, which we reviewed at the respective meeting, along with the department's DA schedule. The Group supplemented this with two pieces of research, the outcome of which is summarised at paragraphs 4.15 to 4.17
- 4.3 Members received a briefing from officers on the background and current arrangements for DAs, and when the rules were last substantially reviewed. Members had been sent in advance the relevant sections of the Council's Constitution, and we had been shown the location on the Council's intranet of the lists of DAs to individual officers.
- 4.4 AJ presented his note on the outline of the legal framework, adding that the current scheme of delegation had been compiled as part of the introduction of Executive arrangements in 2000/01. It had since been continually updated, to reflect changes to legislation, for example. The preparation of the Council's Annual Governance Statement was a further, recurring opportunity to review whether any changes were needed to the scheme of delegation. AJ drew particular attention to legislation requiring that relatively few matters are reserved for Council decision, the bulk being decisions to be taken by the Executive (i.e. the Leader and Councillors appointed by him to have cabinet responsibility for the Council's various functions). In respect of Executive functions, the Leader determines the extent of delegation, not full Council. Different legislation applied to non-executive functions, and the delegation thereof. AJ stressed the importance of sound and comprehensive DAs, otherwise officers were at risk of acting 'ultra vires' and the Council's actions could be challenged in court.
- 4.5 Alan Nash (AN) described the wide-ranging nature of DAs to officers. Each department has a scheme of delegation, approved by the Director concerned and published on the intranet, giving named officers delegations for example to award contracts and authorise payments, within a certain area of activity and subject to an upper limit. As the Council's Section 151 Officer, AN is empowered to authorise payments across all areas. AN explained that the application of the scheme of delegation was reviewed by Internal Audit during the course of specific audits. They focussed on financial systems and risks; they were not deployed in a wider management consultancy type role as this

required different skills, and there are cost constraints. Internal Audit operates to an agreed annual plan, and they produce an annual report, which is reviewed by the Governance and Audit Committee. AN referred to the statutorily required Annual Governance Statement, signed by the Leader and the Chief Executive, and reviewed by External Audit; this is essentially a checklist produced by SOLACE (Society of Local Authority Chief Executives) and CIPFA (Chartered Institute of Public Finance and Accountancy) of the key requirements of good governance. The annual governance statement process sometimes generated action points to be addressed. Legal and financial assurance concerning Executive decisions was provided for by all Executive reports, requiring a comment from the Borough Solicitor and Borough Treasurer. There is also a duty on departments to seek those teams' legal and financial advice as necessary.

4.6 Matters arising in discussion, and in response to the Group's questions were:

- a) Individual Executive Members could have certain executive functions delegated to them, but this did not apply to non-Executive functions. The Leader has the power to vary the delegations to individual Executive Members.
- b) Non-Executive functions could be delegated to a Ward Member by full Council (S 236 refers), but this facility had not been exercised to date.
- c) Executive Members are empowered to exercise functions across the Borough. One Member suggested this gave them an advantage in their own Ward.
- d) The Leader has determined that the Town Centre Regeneration Committee is an Executive Committee, with membership appointed by the Leader.
- e) Non-Executive committees which have delegated powers are: Planning; Licensing (which operates under separate legislation); Employment; Governance & Audit; and Standards (which is now an Advisory Committee).
- f) The decision to delegate powers to an officer is normally recorded in published decisions on reports presented to the Executive. As such, forthcoming decisions should appear in the Executive Forward Plan. A recent example was the decision by the Executive Member for Transformation and Finance to delegate some Compulsory Purchase Order decisions to the Borough Solicitor.
- g) AJ confirmed that the law requires a minimum of 28 days public notice of forthcoming Executive decisions (save in cases of urgency), with publication of the related report a minimum five clear working days in advance of the decision being taken. AN said that internal audit would not routinely check on adherence to this rule, instead they concentrated on financial systems. One Member said he had experienced difficulty in accessing Executive reports electronically, also suggesting that it would be helpful to give Members more than five days notice of forthcoming decisions.
- h) The O&S Commission, though part of the legal committee structure, does not exercise executive powers and is not a decision-making body.
- i) Simon Heard (SH) summarised the Council's rules relating to competitive procurement, with reference to Contract Standing Orders. AN commented that Internal Audit examined procurement annually.

- j) Members noted that there is a balance to be struck between risk and efficiency when determining levels of delegated authority.
- k) Officers are empowered to exercise their DAs, within a framework of accountability and management control. It might be helpful to have all the officer DAs on a single spreadsheet.

#### Environment, Culture & Communities Department

- 4.7 On **28 February**, the Group met Vincent Paliczka (VP, Director) and Hilary Hall (HH, Head of Performance and Resources), of the Environment, Culture & Communities Department (ECC).
- 4.8 The Group observed that the delegations in ECC were more extensive than other departments, probably reflecting the wide range of statutory duties and powers applying to the ECC functions. The Group reviewed the DA schedules for the ECC Department. Matters arising in discussion, and in response to members' questions were:
- a) The delegation to approve changes to conditions attached to planning approvals is necessary, in the same way that complete clarity is needed on all delegations, not least to protect the Council against any accusation that an officer may have acted beyond their authority. In this case, the DA is restricted to those conditions which the same officer was empowered to set originally. VP subsequently confirmed to us that any application to amend a condition attached to a planning permission appears on the weekly list circulated to all members.
  - b) VP explained that Planning decisions are delegated directly to the Chief Officer: Planning and Transport, and that officer delegations are qualified, for example they excluded cases where a councillor asks for the decision to be taken by the Planning Committee, or where three objections had been received. We were subsequently told the number of planning decisions:
    - 2011- delegated decisions 695, committee 52
    - 2012 - delegated decisions 742, committee 56
  - c) The Director explained the position regarding Tree Preservation Orders (TPO), where the underlying policy had been set by the Executive, following an O&S review in 2006. The Council did not usually issue TPOs on trees it owned. The need for a TPO was recognised, for example, when reviewing a planning application, also the Council was sometimes alerted by members of the public. There is a need to react quickly, and if there is an urgent need, an Emergency TPO can be issued, to allow time for the tree to be considered properly; and subsequently the TPO is confirmed or not. Objections can be made to a TPO, and these would be for the Planning Committee to consider.
  - d) The WG noted that O&S input to policy making sometimes arose from requests by the Executive, by Directors, and by O&S taking the initiative in some cases.
  - e) On Planning Enforcement Notices issued by officers under delegated authority, in 2012 there had been 454 investigations. All required some form of investigation (e.g. research, site visit) before closing the case file. Enforcement action had led to 13 Notices being issued.
  - f) The delegation, 'Agreements to create car spaces' relates to decisions to allow front gardens to be used to park cars. Such decisions had to take account of proximity to junctions, for example. VP explained that at Pembroke, a highway verge was being turned into car park spaces, and

he later sent members details of that particular decision and how it had been handled.

- g) We noted that the delegation 'to assist the British Insurance Brokers association' (item 21 on the Environment and Public Protection schedule) had in fact been superceded by the Financial Services Act. It was noted that certain powers might be exercised only rarely, and the Director subsequently sent us a summary of how frequently the EPP delegations were exercised.
- h) The department's DA schedules were reviewed annually and updated to reflect changes in legislation, for example. VP regarded the delegated powers for the ECC department to be sufficient to carry out the Council's business in a timely, efficient, effective and accountable way. This was a matter of balance, allowing officers to get on with day-to-day business, subject to appropriate controls.
- i) The DA to obtain bank account details was likely to be needed when a prosecution was being mounted. SH confirmed that banks are legally required to provide such information in prescribed circumstances.
- j) VP described the extensive, on-going dialogue in regard to decision making, both with the Executive and between officers. Initiatives leading to new decisions came from various sources, for example the Leader asking an Executive Member to follow through an issue. VP confirmed that the Medium Term Objectives were based on the Majority Group's manifesto commitments.
- k) The requirements pertaining to procurement were summarised, which became more exacting for higher cost procurements. SH explained that the financial 'bands' are reviewed periodically, with reference to the Public Procurement regulations, and an increase in the lower band values was currently under consideration; there was a balance to be struck between evidencing the achievement of value for money, and in allowing officers to operate efficiently. It was important to maintain an audit trail. The Council also needed to monitor the total expenditure across the Council with any one contractor, as the Council is a single legal entity and the duties under the regulations therefore applied to the aggregate of the procurement values.
- l) Alison Sanders (AS) described the quarterly monitoring arrangements which analysed total spending across the Council, both to ensure the European Union (EU) procurement rules were complied with, and to allow bulk procurement contracts to be made using the 'Category Strategy' – a whole council approach to procurement of food, agency staff and other common requirements. The Council had become more astute in centralising budgets and combining purchases to achieve better value for money. A summary of Contract Standing Orders was sent to us subsequently.
- m) VP explained the limitations applying to the scope for combining procurements and procuring through a 'schedule of rates'. However, when procuring for example landscape services, an indication was given of the likely value of works orders, so that prospective bidders could take account of the 'economy of scale' when pricing their tenders.
- n) It was confirmed that delegated limits applied to individual transactions, and were subject to budget limits. The Agresso finance system would automatically stop an order, payment authorisation etc, if it exceeded the individual officer's delegated authority. Other restrictions applied to the exercising of delegated authority, e.g. spending only on approved highways schemes. The departmental finance team constantly monitored transactions and produced a detailed monthly report for each

cost centre. Any deliberate attempt to breach delegated authority would be a disciplinary matter, possibly leading to dismissal. Managers were able to check on transactions at any time. The audit function gave additional assurance.

- o) On the decisions to prioritise spending, VP explained that the bulk of expenditure was on routine items (e.g. utility costs) and on schemes already prioritised by the Executive, e.g. the Highway Transport Plans, which listed all the schemes to be delivered. Schemes exceeding £50,000 were listed in reports for full Council approval, and Ward Members are consulted on these schemes. Officers were currently considering how to improve the availability of information on highways schemes.
- p) Delegated limits apply to the anticipated cost of the full length of a contract's term. This meant that long-term contracts often required Director or Executive Member approval.
- q) The Council applied its own terms and conditions when requisitioning goods, services and works. This and other requirements are set out in the Procurement Manual.
- r) Executive Members were not usually informed of the exercising of DAs by officers, unless these were deemed to be significant.
- s) VP described the examples of decision making in the ECC department, including procurements of air quality management and golf training equipment, which illustrated sensitivity of handling and risk assessment. VP confirmed that any significant changes, e.g. a new price structure for golf season tickets, would be referred to the Executive as it would be a policy change. The framework for DAs could not legislate for every eventuality, and officers necessarily applied their judgement in deciding when to involve members.
- t) It was confirmed that the Council maintains a register of contracts.

#### Chief Executive's Office and Corporate Services Department

4.9 On **27 March**, the Group met Victor Nicholls (VN, Assistant Chief Executive) and Alison Sanders (AS, Director of Corporate Services). Matters arising in discussion, and in response to members' questions were:

- a) DAs were only given to officers when they were deemed to be competent to exercise them properly, for example it was not uncommon to delay giving this to a newly appointed officer in their early days in post. The timing of this depended on the skills and experience of the person and the circumstances of their role; this was likely to be at least one month after their arrival, and was handled as part of the induction and supervisory arrangements. There had not been any need to withdraw a DA from an officer, to date.
- b) Delegations were both to the role and to a named officer, and the need to have the delegation had to form part of their job responsibilities.
- c) The Corporate Services Departmental Management Team (DMT) had an annual review, usually in March, to check whether any changes were required to their DA schedule, for example to reflect new legislation.
- d) Mechanisms existed to brief Executive Members on officer decisions on sensitive or contentious issues, usually as part of the regular 1 to 1 meetings. If an Executive Member has a concern this would be explored and resolved before the decision was taken. Technically, an Executive Member could not stop an officer exercising their DA, but it was unheard

of for a decision to be taken by an officer contrary to the known wishes of an Executive Member.

- e) The introduction of Portfolio Review Groups (PRG) was not anticipated to affect delegated decisions by officers. The process was expected to apply only to Executive and Executive Member decisions. Notwithstanding that, as officers do refer to the relevant Executive Member decisions where there are significant political ramifications, such decisions would then enter the PRG process.
- f) The Constitution specifies the delegations, and it makes no provision for temporary delegated powers. In the case of a vacant post, the relevant senior manager/Director would exercise the DA.
- g) There is no barring of expenditure in any particular country, though SH could recall contracts being placed only extremely rarely with companies registered outside Great Britain. The credibility, viability and competence of companies were checked before orders were placed with them. A lot of expenditure is made under existing framework contracts, where suppliers have already been rigorously assessed.
- h) In a case study concerning investment of funds, it was confirmed that the Executive Member concerned was not involved in the delegated officer decision, but was involved in the policy framework.
- i) Single extensions to contracts were permitted, if provided for in the contract. Anything beyond that required Executive approval. SH described the procurement and other regulations applying to extensions of contracts, to provide for elements which had been unforeseen at the procurement stage.
- j) Both AS and VN had all the delegations needed for their officers to carry out their roles effectively. The delegations from the Executive to officers relieve Executive Members from day to day operational issues. The mechanisms for gaining approvals are flexible and work well.
- k) AS suggested that the Group might wish to recommend that there should be a central register of those lower level delegations which were additional to the high level delegations cited in the Constitution, i.e. decisions where an authority had been delegated by the Leader, an Executive Member or a Committee.
- l) Members observed that the layout of departmental DA tables varied, perhaps reflecting the differing circumstances of each department. It might be worth having the Legal team discuss with each department the appropriateness of the layout.

#### Adult Social Care, Health and Housing Department

4.10 On **27 March**, the Group met Glyn Jones (GJ, Director of Adult Social Care, Health and Housing), and Neil Haddock (NH, Chief Officer: Performance and Resources). Matters arising in discussion, and in response to the Group's questions were:

- a) The delegations were usually reviewed at a shorter frequency than annually, for example due to departmental reorganisations. GJ also referred to the significant changes in adult social care, both nationally and locally. There had been further changes to delegations, to ensure that decision-making was carried out at the right level. A lot of thought had been put into this, as too many decisions had previously been referred to the Director and Chief Officers. GJ assured the WG that managers understood both the financial and service accountability considerations applying to their decisions.

- b) Details were awaited of how the PRG process will operate. GJ envisaged that he would submit reports to the PRG with officer advice and recommendations in the same way as he currently submitted reports to the Executive and the Executive Member. It was noted that O&S had contributed to various policy developments through pre-decision scrutiny, a recent example being the local Council Tax support scheme.
- c) Decisions within officers' DAs were occasionally referred to the Executive for a decision, for example when there were politically sensitive considerations, a recent example being the conditions applying to Local Healthwatch.
- d) GJ described the arrangements for the safe execution of DAs, including training, budget monitoring, routine reviews by the DMT, also by finance and performance staff.
- e) No one individual was in a position to always award contracts to the same companies. The placing of contracts was separate from the decision to commence a care package. There are a number of approved suppliers of services, and any of the officers in the procurement team select one as appropriate in the circumstances, often determined by which company had the necessary capacity at that time. In the event that there was a disproportionate commissioning of one company over others, that would be spotted through the routine finance reports from the Agresso finance system. Block contracts were no longer used, and there is a consolidated payment rate. GJ added that legislation allows the Council to take account of price when endeavouring to meet service users' choices and preferences. The performance of each provider is constantly monitored.
- f) There are no gaps in the department's DAs, nor are any improvements needed currently. There was some frustration with the EU public procurement rules – which councils have no ability to change – otherwise the arrangements facilitated efficient and effective operations.
- g) Delegations were shaped principally by the requirements of a role, rather than the individual officer filling that role. There was training on the use of delegations, particularly during an officer's probationary period. The departmental finance team also paid attention to the usage of DAs, and this was closer for example if risk was assessed to be higher or if an officer was new in post.

#### Children, Young People and Learning Department

4.11 On **29 April**, the Group met Dr Janette Karklins (JK, Director) and Paul Clark (PC, Head of Departmental Finance), of the Children, Young People and Learning (CYPL) Department. JK described the DA arrangements as well-honed, and which worked well. Matters arising in discussion, and in response to members' questions were:

- a) The CYPL Departmental Management Team (DMT) comprised four senior officers. Other officers attended as appropriate, depending on the matters under consideration.
- b) The introduction of PRGs was not expected to affect the delegated authority arrangements, though it would be important to set out – as far as possible - the decisions to be taken over the forthcoming year, identifying which issues required a wider input.
- c) Officers considered that In the case of capital schemes exceeding £25,000, more flexibility over delegations regarding virement would

allow faster decisions. A good example of this was the school places plan, where the exact number of extra places required cannot be forecast with complete accuracy, one year in advance; yet an amendment to the capital programme required a 3-4 month lead-in, as any virements required the agreement of the Full Council. JK described how school places projections are constantly updated and a report is made to members annually. PC described how the CYPL Capital Programme Board - whose membership includes two Executive Members and Head Teachers – prioritised capital expenditure within the budget limit. That Board might usefully be given some DA above the £25,000 current virement limit, whilst remaining within the total budget approved by Council for school places capital. AS explained that the current limit had been adopted to give members control over the individual schemes in the capital programme.<sup>3</sup>

- d) Authority to grant extensions to contracts was conditional on extensions being provided for in the contract, and for a maximum contract term of five years. Extensions were suitable when goods/services were satisfactory, but would not be activated if fresh competition was thought likely to give the Council better value for money.
- e) There was no real scope for 'favouritism' in the awarding of contracts. CYPL does not place many contracts, and they are with a range of suppliers, with some of the larger contracts placed in partnership with other councils. A dedicated officer oversees all contracts, ensuring that the procurement rules are followed. Unsatisfactory performance by a contractor would soon be apparent, for example by complaints from parents, and contractors' performance is regularly monitored in collaboration with the corporate procurement team. If contract performance was unsatisfactory, Officers would not wait for the contract to run its full length – they would activate the contracts' terms provision for early termination on grounds of unsatisfactory performance.

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<sup>3</sup> The Borough Treasurer has since advised:  
The financial procedure rules for capital programmes state:

"Where expenditure on a scheme is below the approved budget, the responsible Director may use the level of underspend for other schemes within their Department's section of the Capital programme subject to:

- a) the total sum approved by the Council, in their Department's section of the Capital Programme, not being exceeded,
- b) a maximum of £25,000 can be transferred from or to any one scheme"

Outside of this, any transfer in excess of £25,000 between schemes needs Full Council approval. In the past this hasn't really been an issue. It has come to the fore more recently with the school capacity works that are being managed by CYPL. With these works the amounts that need to be transferred between schemes frequently exceed £25,000 as the detailed designs evolve and the tender submissions are received. In practice these have been reported and approved by Council but I have taken the view that this only needs to be done twice yearly so that Council agendas are not cluttered up with requests to transfer capital monies every cycle. The real issue is one of confidence. CYPL are concerned that Council will reject the request to transfer money between schemes. This is highly unlikely given that Members sit on and are party to the decisions taken by the CYPL Capital Programme Board. Raising the limit would help but would not eliminate the need to report to Council, unless the limit was increased to a very large amount, say £250,000. Alternatively, I could bring reports to Council every cycle, but my feeling is that this is overly bureaucratic.

- f) Schools are free to enter contracts within their own budgets, also the Council's rules. If the Council considered a school was mismanaging their finances, the Executive Member – on the recommendation of the Director of CYPL - could decide to withdraw a school's DA.
- g) Individual officers' DAs are based on their roles and the powers they need to carry out their duties. There is no delay in granting DAs to newly appointed officers, since they need them to do their job.
- h) JK accepted that the DA to the Team Manager for extensions in the Travellers Education Service area would benefit from being reviewed, though these cases were rare and various checks applied.
- i) On the provision of financial assistance to children living with their families, JK explained that these cases are usually for small amounts for respite care for example, and would rarely approach £50,000 – for example in cases of profound special needs. The DA was needed as if the case was an emergency (not uncommon) then officers needed to act without delay. The DA limit applied to total amount authorised, which could apply to more than one child in the same family.
- j) The Director had not had cause to withdraw an officer's DA to date, nor a school's DA.
- k) JK accepted that it was inconsistent to apply a limit to the 'Request for Quotations' DA in Performance & Resources, but not in Children's Social Care.
- l) The Director acknowledged that there might be scope to combine the two lists of service-related DAs, and possibly the list of contract DAs too.
- m) CYPL did not make use of temporary DAs.
- n) One member queried whether there are any checks to prevent a similar decision to that reported as recently taken by a London council, linking the encouragement for adoption with the new benefits treatment for empty bedrooms. JK described the measures which would apply before such a sensitive and controversial decision was made. Fostering and adoption are advertised, and members are involved in any campaign. All members were given advance notice of major campaigns.
- o) The only known case of a significant violation of DA limits was an ECC officer's procurement of major highways services without complying with the European Union's procurement regulations, some years ago.
- p) Officers relied on the procurement process and advice from finance and legal officers to safeguard against contracts being placed with tax-evading companies.

#### The Executive and the Corporate Management Team

- 4.12 On **3 May**, the Group met the Leader of the Council, Councillor Bettison (PB) and Timothy Wheadon (TW, Chief Executive), to discuss the arrangements in the Executive and between the Executive and officers, particularly the philosophy underlying the council's approach to empowering officers within a framework of accountability and control; with reference to their written statement.
- 4.13 TW summarised the background to the Council's DA arrangements, saying that DA schemes must be clear, and that in law most decisions are Executive functions. The current scheme of delegation had originated in 1997, when the Council had endeavoured to achieve the right balance. That balance reflected that Members set the Council's policy and overall strategic direction, whilst it is necessary to appropriately empower officers to keep moving along a multi-million pound business. The recent LGA Peer Challenge concluded that there

is clear political control, and the arrangements are effective. TW added that all DAs are set out and reviewed annually, with any changes largely arising from legislative changes or occasionally issues such as a significant case of failing to comply with the European Public Procurement Directives, some years earlier.

4.14 PB said that the DA arrangements needed to reflect the fact that councillors are elected to give guidance and political direction, but it would be impracticable for elected members to be consulted over, or have detailed knowledge of, everything done in the Council's name. Similarly, it would be too time consuming for every councillor to be familiarised with everything each member of the Executive was involved in. Delegations to Executive Members and to the Executive as a whole were set out clearly, and provided everyone an opportunity to be informed. These opportunities were not taken up by all members. The Council has clear demarcations of responsibilities, periodically reviewed, which Executive Members are familiar with and apply. An example of the need to move swiftly and decisively was the purchase of Time Square; members had been previously aware of the need to substantially increase office accommodation as a consequence of becoming a Unitary Authority, and completion of the sale had to be achieved within ten days. Another example was the on-going briefings to members on the evolving shape of the Development Agreement for the town centre regeneration, even though decisions were for the Executive to make. Matters arising in discussion, and in response to the Group's questions were:

- a) Some members did not understand the need for DAs or how they operated.
- b) PB met TW weekly to impart the political steer on issues, and this was in addition to the frequent informal contacts between directors and Executive Members.
- c) The first half of the agenda for the Executive briefing meetings was to consider reports intended for future consideration by the Executive in public. The second half contained emerging issues where officers needed a political steer; and such issues were usually taken next to the majority group for its consideration.
- d) Executive Members can choose to take a matter to the full Executive even though they have DA to make the decision. This usually applied to politically sensitive issues, following the principle of collective responsibility. A particularly large example was the decision to renegotiate the Development Agreement in order to pursue the regeneration of Bracknell town centre, where it had been decided to seek the endorsement of full Council to the Executive's decision. PB said that had been particularly important, as: every elected member felt they were part of that huge decision; and the developers, who were set to risk £100+ million, needed a clear message that all councillors were behind the scheme, and that the commitment would not diminish if there was a change of administration.
- e) There are opportunities for non-Executive members to contribute ideas for policy development, and this might be made more clear in the induction for newly elected members. TW explained that:
  - O&S offers members a facility for making an input to policy development, within a work programme that was set by O&S members;
  - Members could take their ideas to their political group meetings;

- All members were welcome to raise their ideas with the relevant Executive Member, Director or Chief Officer.

TW added that all members received and had an opportunity to raise questions on the quarterly performance reports, which were transparent over, for example, matters which were not progressing well.

- f) One member commented that members wanted to know in advance what works, etc were being approved and why, citing examples of tree felling and new cycle ways. PB said that the visibility of the issue determined whether members were informed, and it was for the judgement of Executive Members and officers whether to inform Ward Members of works. The 'Forward Look' section in quarterly performance reports set out the main forthcoming initiatives. One Member observed that a new bus contract had caused a lot of interest among Great Hollands residents, yet he had not been given advance information of that. TW commented that a weekly member briefing had once been produced on such issues, but had been stopped as some members felt they were being sent too much information. TW said that consideration would be given to how to improve the communication of decisions which had been taken on forthcoming works, etc, possibly in the form of a monthly ward-level information sheet (excluding Planning issues).
- g) It was difficult to benchmark how the Council's DAs compared to other councils. Differences might reflect differing political circumstances, or the scale of their budgets. PB expressed the view that the Council's DA arrangements compared favourably to others, in terms of clarity, understanding and compliance, and this had been verified by the recent Peer Review.
- h) The checks and balances to tackle the risk of 'favouritism' in awarding contracts included review of contracts within departments, staff performance management by managers, an annual audit, and all contracts over £35,000 being reported to the Corporate Management Team.
- i) The DAs in place are regularly reviewed to ensure they are appropriate. TW said that the scheme did not result in delays or log-jams of decision making, and his expectations are met, in the main.
- j) No individual DA had been removed from an Executive Member or officer, though the authority for land disposals had been taken over by the Governance and Audit Committee, and the procurement limits had been tightened for everyone.
- k) PB described the induction arrangements for newly appointed Executive members, including external mentoring, and ensuring that decisions have the full support and advice of officers.
- l) The wide variation in the number of Executive decisions between Executive portfolios was not related to workload, but reflected the extent to which important new policy decisions had been taken – as opposed to continuing operations. Consolidated information on decisions taken might be worth publishing periodically.
- m) PB said the O&S review was useful, and TW said it had helped to concentrate people's minds on the DA arrangements.

#### How does Bracknell Forest Council's Scheme of Delegation Compare to Best Practice Guidance ?

- 4.15 The Group reviewed how the Council's scheme of delegation compares to best practice guidance. The outcome of this analysis is at Appendix 3. This showed that in all important respects the Council's arrangements are sound. The guidance indicated a few issues which the Group had already identified where improvements might be possible, such as in audit arrangements and in strengthening periodic reviews, and we return to these in our conclusions and recommendations.

#### How does Bracknell Forest Council's Scheme of Delegation Compare to Other Councils'?

- 4.16 The Group reviewed how the Council's scheme of delegation compares to a small sample of other local authorities. We selected West Berkshire, Isle of Wight and Wiltshire County Council as the comparators.
- 4.17 The published constitutions of each of those councils were briefly reviewed and notable differences are shown in Appendix 4. The comparison did not extend to seeking access to unpublished schedules of delegated authorities within departments. On the basis of this limited review, we could see that delegations in Bracknell Forest are less extensive than Wiltshire and the Isle of Wight, but more extensive than West Berkshire. There are a number of factors influencing these differences, for example one is a county council with a budget around three times the size of Bracknell Forest, and another is a fire authority too. This did not lead the Working Group to think that the Bracknell Forest delegations were too high or low by comparison with other local authorities. The comparison was useful also in that some other council's constitutions contained some passages, e.g. around upward referral, that were of interest to the Working Group, and in recommendations 5.9(a) we refer to these as being possibly useful for adoption in the Council's constitution.
- 4.18 The Group met for the last time on **3 June**, when – in consultation with officers - it considered its draft conclusions and recommendations for incorporation into a report.

## 5. Conclusions And Recommendations

This has been an interesting review. Our main reason for having the review was that the Council's delegated authority arrangements had not been reviewed across the board since the Council moved to the Executive governance model following the Local Government Act 2000. We did not start our review due to any signs that the DA arrangements were faulty – there were no such indications. From its investigations, the Working Group (the Group) has drawn the following conclusions, on which we have based a number of recommendations to the Leader of the Council.

### General

- 5.1 Delegating authority entails people with power trusting others to exercise those powers on their behalf. This unavoidably involves a risk that the power can be misused. Only the smallest organisations can operate well with no delegated authorities. In an organisation like a local authority, with over £100 million being spent every year, and thousands of decisions being made every week – ranging hugely from offering school places to children, to deciding on care packages for elderly infirm people, and deciding whether to repair a road, to name just a few – delegated authorities are essential. Without them, every decision would have to be taken by a small number of leading councillors, which would be completely impracticable.
- 5.2 Deciding what powers should be delegated, and to whom is a matter of judgement, within various boundaries set in legislation – the main point being that unless specified to the contrary, all decision making is vested in the Leader of the Council. In making those judgements on the extent of delegations, the ideal is to strike the right balance between risk and efficiency: delegating too far, and with inadequate monitoring and controls would undermine the leadership role and bring a likelihood of misuse of powers; too little delegation or excessive control would lead to slowness of decision making, operational inefficiency and failing to make best use of the skills of officers.
- 5.3 Whilst we have made below a number of observations and recommendations for improvements, **our overall conclusion is that the Council has sound and well understood arrangements in place for delegated authorities, achieving an appropriate balance between the Executive taking responsibility, yet empowering officers to get on with their jobs, delivering essential public services.** The success of this is evident in no recent known cases or adverse audit reports concerning misuse of delegated authorities, high levels of residents' satisfaction with council services, and a low council tax rate giving reassurance that services are being provided efficiently.

### Delegations To Executive Members

- 5.4 The Group met the Leader and the Chief Executive to understand the underlying approach to delegation and empowerment. Whilst we concur with the overall approach, we did note two anomalies in the published information on the responsibilities of each Executive Member (EM). **The Working Group recommends these anomalies should be corrected:**

- a) **Bracknell Market is shown as being the responsibility of both the EM for the Environment (item 3) also the EM for Economic Development (item 2).**
- b) **Reducing smoking is a published responsibility of the EM for Culture, etc (item 12), whereas it is a significant public health function for the EM for Health (item 3), and should be more fittingly their responsibility**

#### Registers of Delegated Authorities

5.5 The Group noted some variation between departments in the way that DA's were recorded. Some used more extensive and precise lists than others, for example the Adult Social Care, Health & Housing DA table is very comprehensive, distinguishing between service specific delegations and the more generic, such as employment offers. Also, some lists were on the Council's public website, some were on the internal intranet (BORIS) and others were kept at departmental level, not easily accessible to all members and officers. **The Working Group recommends that:**

- a) **A three-part register is kept by each department on delegated powers, divided into operational powers specific to that department (e.g. offering a school place to a child); procurement limits (e.g. the award of a contract) and 'pay and rations' type delegations (e.g. approving an application for a training course). A common template for the register should be used across council departments.**
- b) **The registers need to be stored in one place only – possibly the intranet - so that they are easy to locate, and it is clear there is just one authoritative version.**
- c) **There should be a central register of those lower level delegations which are additional to the high level delegations cited in the Constitution, i.e. decisions where an authority had been delegated by the Leader, an Executive Member or a Committee.**

#### Reviewing Delegated Authorities

5.6 The Group noted that all the DA schedules had been reviewed soon after we announced our review was to begin. We also observed that the Environment, Culture and Communities department's delegated authority list had an item regarding insurance which we found to be redundant as the legislation had been repealed. This underlines the need for regular review to ensure the lists are reliable and up to date. **The Working Group recommends that**

- a) **Every two years, the Corporate Management Team and the Executive should review the range of delegations within the Constitution and each department to satisfy themselves that the DA's are appropriate.**
- b) **The DA registers should be reviewed at least once annually and signed off by directors, based on their judgement that in all cases named officers have the capacity and ability to apply the necessary judgement in exercising the DA.**

- c) **Internal audit should ensure compliance with delegations whenever they undertake an audit.**

#### Are Delegated Authorities High Enough?

- 5.7 The Group was reassured to be told by all the Directors that the DA's for their departments were sufficient to allow business to proceed well, with one exception. We were persuaded that the limit on 'virements' (moving funds from one budget heading to another) within the school places item in the capital programme is probably too low, at £25,000. **The Working Group recommends that**
- a) **Provided the Children, Young People and Learning department remains within the overall budget for schools capital set by Council annually, the Borough Treasurer, in consultation with the CYPL Programme Board (which has the Executive Members for CYPL also Finance in its membership) should have delegated authority to sanction larger virements – perhaps up to £250,000, in recognition that events (such as increases in the numbers of children requiring education) can change rapidly and officers need to be able to respond efficiently and swiftly to those changed requirements.**
  - b) **Consideration is given to revalue DA limits in line with inflationary changes and any change in departmental budgets.**

#### Delegated Authorities for Newly Appointed Officers

- 5.8 The Council needs to be satisfied that anyone empowered with delegated authority can be relied upon to exercise it properly. We noted that there is some variation in the granting of delegated authorities to newly appointed staff. For example, the Director of CYPL told us they had these from the outset in order to carry out their duties, whereas the Director of Corporate Services explained that it was not uncommon to delay giving this to a newly appointed officer in their early days in post. We recognise that all officers should not be hampered to do their jobs, but equally any delegated authority should not be granted without some confidence that the individual can be trusted to exercise it responsibly. **The Working Group recommends that**
- a) **As part of the induction process, guidance is issued on the granting of delegated authorities to newly appointed staff, to achieve consistency across departments. The emphasis should be on allowing delegations, providing there is capacity and ability to apply the necessary judgement in exercising the authority, but limiting delegations, whilst providing support and training, to any new officers who do not yet meet the necessary level.**

#### Exercising Care and Attention When Using Delegated Authorities

- 5.9 There is a risk with any table showing monetary amounts that people might follow them slavishly and not alert other people as necessary. We were reassured that, in practice, decisions on sensitive issues were usually subjected to more consultation than was strictly required under the scheme of delegation. Nevertheless, we think this would benefit from further codification

in the Leader's scheme of Executive delegation and internal guidance to officers. **The Working Group recommends that:**

- a) **The Leader's scheme of Executive Delegation and the Constitution is amended to require that:**
  - **If an Executive Member wishes to take a decision contrary to the advice of the relevant Director then the Member must refer the issue to the full Executive for a decision.**
  - **If an Executive Member considers that any decision they are being asked to take is likely to be sensitive or controversial, then they have the discretion to refer the decision to the full Executive for consideration.**
  - **Any officer decision that in the officer's judgement is likely to be contentious should be discussed with the relevant Director and Executive Member before the decision is made so that the appropriate decision making process can be agreed.**
- b) **Guidance is issued to all officers with delegated authorities about their responsibilities, stressing that the success of any DA scheme depends on more than adhering to the financial limits, it requires common sense in its application, and where exceptionally there is doubt, decisions must be referred upwards.**
- c) **A process is put in place to ensure that Ward Members are informed of significant decisions and issues that affect their ward before the effect of the decision reaches the public domain (including the press). This might be in the form of a regular 'Ward Bulletin'. This is particularly important when the matter is likely to be regarded as politically sensitive or contentious. Following a trial of such a bulletin, the extent and depth of the information needed should be determined by the Member Services team surveying all Members' views.**

#### Procurement Arrangements

- 5.10 We endeavoured to keep the focus of our review on delegated authorities, but during the course of our work we encountered some issues around procurement. Whilst we were reassured from what we were told that procurement arrangements are robust, it seemed to us that there was some uncertainty over whether any particular types of suppliers should be debarred from being considered to be commissioned. We decided not to pursue this as we were advised that debarring suppliers from tendering on *suspicion* of non-payment of tax, though an attractive idea, could be difficult in practice. On larger contracts subject to the full Public Contracts Regime it would expose the Council to serious risk of legal challenge and damages or even overturning of our decision by a court. We were told that the Council already debar suppliers found guilty of conspiracy, corruption, bribery, fraud (including defrauding the Revenue or Customs), or money laundering.
- 5.11 We observed that the Children, Young People and Learning Department's delegated authority tables were inconsistent in that some teams had monetary limits on their authority to obtain 'RFQ' (Request For Quotation) whereas other teams had no monetary limit.

5.12 We welcome the greater transparency which the e-procurement system will bring to new lower-level contracts. **The Working Group recommends that**

- a) **The Procurement Team should issue guidance to ensure a consistent approach to the level of delegated authorities for 'Requests For Quotations'. This will assist Directors in their determination of the delegation for individual officers, the level of which will depend on skills and experience of the individual and the requirements of their role.**
- b) **To improve transparency of contract awards, the existing database of contracts exceeding £35,000 should be expanded to include the name of the officer approving the contract, the contracted person/organisation(s) name, contract cost, contract type (new/extended), any changes in the terms of the contract, and date.**

## Glossary

BFC / The Council	Bracknell Forest Council
CIPFA	Chartered Institute of Public Finance and Accountancy
CMT	Corporate Management Team
CO	Chief Officer
CYPL	Children, Young People and Learning
DA	Delegated Authority
DMT	Departmental Management Team
ECC	Environment, Culture & Communities Department
EM	Executive Member
EU	European Union
HR	Human Resources
LGA	Local Government Association
O&S	Overview and Scrutiny
PRG	Portfolio Review Groups
QSR	Quarterly Service Report
SOLACE	Society of Local Authority Chief Executives
TPO	Tree Preservation Order
'The Group'	The Working Group of the Overview and Scrutiny Commission.

**BRACKNELL FOREST COUNCIL**

**OVERVIEW AND SCRUTINY COMMISSION**  
**February 2013**

**WORK PROGRAMME 2012 – 2013**

Terms of Reference for

**DELEGATED AUTHORITIES OVERVIEW AND SCRUTINY WORKING GROUP**

**Purpose of this Working Group / anticipated value of its work:**

- |   |
|---|
| <ol style="list-style-type: none"><li>1. The purpose is to review the scheme of delegation and the extent of powers delegated to Executive Members and officers, and their application in practice.</li><li>2. The anticipated value of the review is:<ol style="list-style-type: none"><li>i. To consider afresh an important part of the Council's governance arrangements, which was last fundamentally reviewed over ten years ago</li><li>ii. To build Members' knowledge and understanding</li><li>iii. To ensure the delegated authority arrangements facilitate timely, effective and accountable decision making</li><li>iv. To identify any improvements needed to the current arrangements</li></ol></li></ol> |
|---|

**Key Objectives:**

- |   |
|---|
| <ol style="list-style-type: none"><li>1. To ascertain the legal framework applying to delegated authorities and the detailed arrangements in place in the Council</li><li>2. To review the delegations in place within each department, and reach a view on whether the levels are appropriate, with reference to: best practice guidance; and a suitable balance between risk and efficiency</li><li>3. To review how the Council's scheme of delegation compares to a small sample of other similar local authorities</li><li>4. To build understanding of the council's approach to empowering officers within a framework of accountability, control, and timely decision making.</li><li>5. To build understanding of the application of delegated authorities in practice, with particular reference to:<ol style="list-style-type: none"><li>i. How senior staff work collectively and in collaboration with Executive Members in the development of proposals requiring decisions</li><li>ii. A case study of a decision within each department</li></ol></li></ol> |
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**Scope of the work:**

- |  |
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| <ol style="list-style-type: none"><li>1. The Council's scheme of delegation</li><li>2. Detailed delegated authority schedules for each department and the Chief Executive's Office</li></ol> |
|--|

**Not included in the scope:**

- |  |
|--|
| 1. Operational issues, unless Members regard any to be essential to completing the review. |
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**Terms of Reference prepared by:** R Beaumont

**Terms of Reference agreed by:** The Working Group

**Working Group structure:** Councillors Angell, Mrs Birch, Finnie, Gbadebo, and Leake

**Working Group Lead Member:** Councillor Angell

**Portfolio Holder:** Leader of the Council

**Departmental Link Officer:** A Sanders

**BACKGROUND:**

- |   |
|---|
| 1. The Overview and Scrutiny Commission determined to include in their work programme for 2012/13 a review of the scheme of delegation and the extent of powers delegated to officers, and their application in practice. The Commission consulted the Executive and the Corporate Management Team on its work programme. |
| 2. The scheme of delegation derives firstly from legislation, then arrangements as set out in the Council's Constitution.   |

**SPECIFIC QUESTIONS FOR THE WORKING GROUP TO ADDRESS:**

- |    |   |
|----|---|
| 1. | What is the legal framework applying to delegated authorities and what are the detailed arrangements in place in the Council? Do these deliver what Members want?   |
| 2. | Are the delegations in place within each department up to date and appropriate, with reference to: best practice guidance; a suitable balance between risk and efficiency; and are more delegated powers needed?  |
| 3. | How does the Council's scheme of delegation compare to other local authorities?   |
| 4. | What is the philosophy underlying the council's approach to empowering officers within a framework of accountability and control?   |
| 5. | How do delegated authorities operate in practice, with particular reference to: <ul style="list-style-type: none"> <li>iii. How do senior staff work collectively and in collaboration with Executive Members in the development of proposals requiring decisions?</li> <li>iv. A case study of a decision within each department where, exceptionally, things did not go well, the remedial measures taken, and any lessons learnt.</li> </ul> |
| 6. | Are any improvements needed to the scheme of delegation or its operation?   |

**INFORMATION GATHERING:**

**Witnesses to be invited**

Name	Organisation/Position	Reason for Inviting
Cllr Bettison	Leader, BFC	To understand the Leader's approach to delegating responsibility for decision making among the Executive Members and throughout the Council

Timothy Wheadon	Chief Executive, BFC	To build members' understanding of: - the philosophy underlying the council's approach to empowering officers within a framework of accountability and control - how senior staff work collectively and in collaboration with Executive Members in the development of proposals requiring decisions
G Jones Dr J Karklins V Paliczka A Sanders	Directors, BFC	To review: - the delegations in place within each department - a case study of a decision within each department
V Nicholls	Assistant Chief Executive	
N Haddock H Hall D Watkins	Senior departmental officers responsible for finance/governance	
A Jack	Borough Solicitor	To ascertain the legal framework applying to delegated authorities and the overall arrangements in place in the Council
A Nash	Borough Treasurer	

### Site Visits

Location	Purpose of visit
TBC	Possibly necessary, depending on the information required about other councils' delegated authority arrangements

### Key Documents / Background Data / Research

1.	CIPFA guidance 'Delivering Good Governance in Local Government: Guidance Note for English Authorities (2012)'
2.	Comparison with other councils' schemes of delegation (internet research) : three other Unitary Authorities, at least one of which in Berkshire

### TIMESCALE

Starting: February 2013

Ending: May 2013

### OUTPUTS TO BE PRODUCED

A report containing recommendations as necessary to the Council's Executive.

### REPORTING ARRANGEMENTS

Body	Date
Overview and Scrutiny Commission: Report of the Working Group for the Commission's adoption	TBC, possibly June 2013

## MONITORING / FEEDBACK ARRANGEMENTS

<b>Body</b>	<b>Details</b>	<b>Date</b>
Overview and Scrutiny Commission: - Progress reports to each Commission meeting	A brief summary of the progress of the Working Group, for information and discussion	28 March 2013 and subsequently

**Departmental Responses to the Working Group's Written Questions**

The Working Group decided to structure the meetings with each of the Council's Directors by seeking written answers to a series of questions, in advance. The responses we received are in the table below.

**1. How do you work in practice with the appropriate Executive Member and the Corporate Management Team, in terms of:**  
**a) gaining their involvement in developing proposals which will require Executive approval in due course;**  
**b) informing them of significant or sensitive decisions which are within officers delegated powers?**

Environment, Culture and Communities (ECC)

a) The majority of decisions will originate from the council's medium term objectives which will themselves have been based on the election manifesto. This is translated into an annual action plan and officers will enter details onto the forward plan as the project is initiated. There may be several decisions required as a consequence of one objective (for example - adopt the Site Allocation DPD).

Other initiatives may arise as a consequence of local or national developments where a decision is required of the council. These can come from the Leader via an Executive Member, the Executive Member directly, changes in legislation or officers identifying opportunities to the Executive member. Officers can be approached from many sources such as ward members, local parish and town councils, or members of the community.

Where the strategic direction of the council is known, officers (either the Director or Chief Officer on the whole) will liaise with the Executive Member as a draft report is prepared. Depending on the level of significance, the Executive Member will see the report at an early stage and comments will normally be taken on board, reports adjusted to emphasise one point or another or possibly change. It is important to note that most reports are written in light of known political objectives and therefore, in general, most changes are in emphasis. Very occasionally, usually in consequence of legal considerations or a firmly held professional view, officers may elect not to amend a recommendation.

Where any difference between an officer view and the executive or executive member is known, informal discussions are typically held with the Chief executive either at planned 1:1's or impromptu phone calls / discussions to identify how the matter can be progressed. Reports then are considered by Corporate Management Team which adds a valuable professional scrutiny role prior to progressing into the Executive cycle. Borough Treasurer and Borough Solicitor comments are included in all reports.

Other reports may take a less structured approach with informal discussions leading to an item appearing in the forward plan. Examples include the recent decision to award Bracknell Rugby Club grant aid following a request from them, where I made contact with the Executive Member and then ward members prior to the report even appearing on the forward plan. The recent "Climate Local" decision involved the Executive Member in discussion with the Leader before it

appeared on the forward plan.

b) Where an officer decision is readily identifiable as sensitive, a dialogue with the Executive Member will ideally be held in advance of the decision and any initiatives required to manage the message or potentially delay the decision will be identified. Depending on the significance (and members have a different perspective to officers), this could amount to delaying the decision while the Executive Member takes soundings elsewhere, or pro-actively alerting members of the decision (which can be either Executive Members or officers). Normally, this is most important where it is felt that ward members may be approached by their residents.

There are occasions where a decision is made which is not identified as significant in its own right but it subsequently becomes apparent that it has wider ramifications than initially apparent. When this happens, immediate contact is made with the appropriate member and a plan identified on how to counter any issues that have arisen.

### Corporate Services (CS)

a) Officers in the Directorate meet regularly on a one to one basis with the Executive members; Cllrs Alan Ward, Iain McCracken and Paul Bettison. In addition Cllr Ward and Cllr McCracken regularly attend our DMT meetings. As Director I have monthly formal one to ones with each of the main Executive members in addition to other informal meetings and contact. Each Executive member also has regular one to ones with the chief officer or senior officer of the service to monitor performance and to guide service direction. In addition the two main Executive members attend the start of alternate DMT meetings.

Through all these meetings the Executive Members monitor the performance of the directorate, contribute to and steer plans and strategies required by the Council and are also briefed on any emerging issues requiring decisions. The Executive members also provide a steer through these meeting as to what areas they would like developed further, where they think there may be problems and what research they want us to carry out on specific areas of interest.

The CO: HR keeps the Chairman of the Employment Committee up to date on “significant and sensitive” issues as necessary.

Any areas coming out of these discussions which require formal decisions are identified at an early stage and added to the Forward Plan. The Executive members are briefed on the approach officers are taking in preparing for the decisions and the approach is tailored to reflect their steer on the subject. Prior to the formal decision the supporting papers are shared with them and their approval is sought. If the decision is to then be put to the Executive they are fully briefed and supported through this process too.

Corporate Management Team (CMT) meets on a weekly basis and reviews all proposed decisions on the Forward Plan. Where these are Executive decisions, the papers are reviewed by CMT before they are put to the Executive. CMT may also ask to see a decision to be taken by an Executive member that is on the forward plan.

Once a proposal is drafted as a report there is a well established process for it to get to CMT. Officer reports on key decisions always include Borough Treasurer

and Borough Solicitor comments.

b) Where a key decision is to be taken by an officer under delegated powers, again advance notice of this is usually given through the regular meetings with Chief Officers and the Director so that the Executive Member is aware of and agrees with the general direction of travel of the decision to be taken. If it is a key decision then a formal paper is also required with the comments of the Borough Treasurer and the Borough Solicitor. If the decision is of a very routine nature it will not require prior discussion.

#### Chief Executive's Office (CXO)

Regular one to ones with Cllrs Brunel Walker, McCracken and Bettison. Frequent phone/email contact to make sure key issues are flagged up and understood, together with clear member steer when needed. Executive Members are closely involved in developing policy and other proposals. The relationships are effective in that they help to develop a shared understanding of issues and the best ways to respond.

An early, "heads up" is given regarding significant or sensitive decisions and forthcoming decisions are discussed with members.

Draft proposals are taken through a well-established route through the CMT and then the Executive. Officer reports always include Borough Treasurer and Borough Solicitor comments.

#### Adult Social Care, Health and Housing (ASCH&H)

a) Regular meetings take place with the Executive member to review performance, best practice and policy development both for the Council and also in the light of national legislative changes. This identifies the need to change policy or investigate new policy options or change operational activity within the existing delegations. It also identifies where there is a need to report to Executive to gain authority to consult on changes prior to seeking authority from Executive to make the policy change or to initiate a new policy.

b) An example of this is in respect of developing the department's new policy on Debt. Whilst it is within officer delegated power to chase the repayment of debts incurred in respect of provision of social care up to and including court action, the department is mindful of the sensitive nature of such decisions. The current policy was therefore developed in consultation with the Executive Member. Officers are now empowered to take court action with the Executive Member having given approval to the revised policy.

The Department has also let a small number of contracts recently that were within the Director's delegated authority, but where the decision was instead deferred to the Executive Member, because of their high profile.

#### Children, Young People and Learning (CYPL)

There is ongoing dialogue between the Director and Executive Member for Children, Young People & Learning (CYP&L) through regular one-to-ones, phone calls and emails. This ongoing dialogue means the Executive Member is involved in developing proposals. This is not always a written process, but part of the

relationship between senior officers and Executive Members. A similar process operates for other Executive Members but the main point of contact is the Executive Member for CYP&L

Once a proposal is drafted into a report there is a well established process for it to get to CMT. Officer reports on key decisions always include Borough Treasurer and Borough Solicitor comments.

We have at least monthly meetings with the Executive Member for CYP&L at which we discuss reports that are coming up before they have been written so that he is briefed in advance. Before reports reach CMT there is a well established process for them to be presented to DMT.

## **2. Does your department have all the delegated powers it needs to carry out the Council's business in a timely, effective and accountable way?**

### Environment, Culture & Communities (ECC)

The combination of powers delegated by Council, the Leader, financial limits and procurement processes are believed to provide an appropriate balance between organisational efficiency and accountability. Some officers believe some procurement requirements are too stringent and would like less control, but on the whole the balance between action and audit is reasonable.

Delegations to planning officers are qualified in that they can only take a delegated decision on planning applications subject to conditions relating to a lack of local objection or no member wishing to see the decision made by the Planning Committee. In theory, all decisions could be referred to Committee but it would be hopelessly impractical to do so. The existing scheme of delegation seeks to strike an appropriate balance between operational efficiency and the need to ensure that Members are able to exercise their right to determine the planning merits of a proposal and be seen to take decisions on matters of local concern.

Delegations to some officers (for example environmental health) have significant legal consequences and rely on professional judgement. An EH officer would not seek authority from Members to shut a food establishment down if what he or she found was a risk to public health.

The overall sense of the council's delegation is that it allows normal operational and business decisions to be made by officers within a policy framework set by members. The major decisions are made by Executive, Executive Members or Committees.

### Corporate Services (CS)

The Department has a long standing list of delegated powers which have served well for a number of years. These are reviewed annually in light of any changing legislation and, if necessary, there will be a discussion with the Borough Solicitor as to whether any amendments are required.

If there was a need to make a change to the Scheme of Delegation then it would go through the agreed process:

- The Scheme of Delegation for Executive functions can be altered by the Leader if needed.
- Any changes to delegations for non-executive functions have to go through the

Governance and Audit Committee, and are then ratified by full Council.

Chief Executive's Office (CXO)

Yes

Adult Social Care, Health and Housing (ASCH&H)

The Department does have all the delegated powers it requires. Within the department, delegations are normally reviewed annually, however an additional review was undertaken midway through the current financial year on delegations for agreeing support arrangements for people with a Learning Disability, as the existing arrangements were not practical. With Learning Disability packages costing significantly more on average than packages for other care groups, most packages were requiring the sign off of the Chief Officer. The amended scheme of delegation makes use of the principles of the department's Resource Allocation System, which provides indicative budgets for people based on their needs. The new scheme allows officers at each level of seniority in different care groups the same degree of flexibility as each other in approving final allocations for people compared to indicative budgets.

Children, Young People and Learning (CYPL)

If there was a need to make a change to the Scheme of Delegation then it would go through the agreed process:

- The Scheme of Delegation for Executive functions can be altered by the Leader if needed.
- Any changes to delegations for non-executive functions have to go through the Governance and Audit Committee, and are then ratified by full Council.

Difficulty has been experienced in the past to be able to effectively manage the Education Capital Programme which is amended on pupil forecasts. The virement rules in Financial Regulations around changes to the capital programme are prohibitive to effective and timely management as spend cannot be incurred unless an amendment to a scheme is approved by Full Council and neither can budget virements be agreed outside of the Executive. If there is the need for a change a quicker decision making process is needed. Currently the process can take many months.

**3. What is your approach to deciding on what are appropriate levels of empowerment for officers in your department, and specifically:**

**a) Do you aim for any type of consistency with other departments?**

**b) How frequently do you review your delegated authorities?**

Environment, Culture & Communities (ECC)

a) Within ECC, there are varying levels of accountability and these are transparent. Firstly, there is my scheme of delegation to Chief Officers which describes what they can and cannot do. These Chief Officers, in turn, are required to maintain a scheme of delegation for their own divisions.

Financial accountability is also managed and in general there is a level of consistency between officers at different grades although the requirements of the specific job are also considered.

- b) I have not cross referenced my approach to delegations with other departments since their operational requirements are felt to be significantly different. However, the Borough Treasurer does take an overview with regard to financial accountability to ensure these are appropriate.
- c) Delegations are reviewed annually.

#### Corporate Services (CS)

a) The approach taken is a very practical and pragmatic one where empowerment is viewed as how it best serves the Council in terms of striking a balance between efficiency and getting the job done effectively and ensuring that decisions of significant impact and magnitude are subject to proper political scrutiny and process. The issue of consistency with other departments is broadly set out for HR, Finance and Information management within the various policies of the Council and these stipulate the roles of chief officers and designated officers. However, the other statutory requirements and responsibilities for each department are quite different though we all operate within the over-arching framework as set out in the Constitution.

b) The delegated authorities are reviewed on an annual basis by each of the members of the DMT and then reviewed collectively by the whole DMT. An annual submission regarding the review of delegations in the directorate is made to the Governance Working Group (which has a member of Governance and Audit Committee in attendance) as part of the process for formalising the Annual Governance Statement for approval by Governance and Audit Committee.

In addition, any change in a member of staff will require a review of their delegations depending on their skills and experience in that area.

#### Chief Executive's Office (CXO)

a) There is little need for extensive delegated powers in the Chief Executive's Office. What little there is relates to the usual financial controls but essentially focuses on supporting regeneration.

b) The internal schemes for each department are appropriate to the functions and requirements of each department. Due to the diverse nature of the functions of each department, it is neither practical nor possible to have one consistent approach. However, everyone operates within the over-arching framework as set out in the Constitution. Powers are reviewed when the need arises (see response to question 1, for example).

#### Adult Social Care, Health and Housing (ASCH&H)

a) In respect of HR matters, the department's delegations are in line with the Corporate policy. In respect of finance decisions, the vast bulk of finance decisions are on care arrangements, and there is no comparison with other departments.

For care arrangements, the department has two tools that it uses: the Bracknell Usual Price for residential and nursing care, and the Resource Allocation System that provides an indicative budget for an individual's support needs. At the lowest level of authorisation, if a budget decision comes within the parameters provided by those tools, then it can be made at the first level of seniority; the greater the divergence from these, the more senior the officer exercising the decision needs to be.

b) The Department reviews its delegated authorities at least annually, in advance of the new financial year.

Children, Young People and Learning (CYPL)

- CYP&L operates within the over-arching framework as set out in the Constitution. The internal schemes are appropriate to the functions and requirements of CYP&L.
- Delegated authorities are reviewed annually and posted on BORIS.
- Chief Officers and Heads of Service have responsibilities which are determined and agreed through the various action plans. Therefore they have delegated responsibility for the achievement of particular tasks which are linked with the Service Plan and Children and Young People's Strategic Plan.

**4. Please describe the accountability and other controls you have adopted around the exercising of delegated authorities, in particular:**

- a) your department's approach to training, management support and supervision to ensure delegated authorities are being exercised responsibly.**  
**b) Are there any different arrangements for officers during their probationary period?**  
**c) Reporting arrangements**

Environment, Culture & Communities (ECC)

a) Within the scheme of delegation, specific reference is made to the notion that a delegation can only be exercised where the officer is competent to do so and if they are not, they should refrain from doing so and refer the matter to someone who can properly make the decision. Training needs of officers are normally identified as part of the appraisal process and is either organised by the corporate training team or, more usually if it is professional training, managed by the manager and officer concerned. Officers are signposted to the scheme of delegation at least once per year and in practice operational performance and issues will be discussed at 1:1 meetings (normally monthly) and also as part of team meetings.

b) There are no specific restrictions to an officer on probation although it is normal for managers to be in very regular contact with a probationer to offer advice, support and guidance. There has not yet been an occasion when an officer on probation has improperly used a delegated authority and it is more likely that they would seek support of managers if it was significant. The majority of "delegated authority" decisions are operational and enable officers to do their job effectively and efficiently.

c) In terms of reporting arrangements, there has always been the need for key officer decisions to be entered onto the forward plan and this continues. Other decisions may well be accompanied by a report and this will be for audit and transparency purposes. Recently, a formal recording system for certain decisions made by officers has been established – for example if the financial impact is in excess of £10,000.

d) Operational matters and progress towards meeting business objectives are discussed at various 1:1's but discussions are not held on "decisions made under delegated authority" – these are too numerous to mention and operational in practice.

Corporate Services (CS)

The appropriate use of the Scheme of Delegation is dependent on the competencies

of the officer who has been given the delegated authority. For senior officers exercising delegated authorities, assessing competency goes right back to the interview stage to ensure that the person appointed has the necessary skills experience and competencies to exercise their role. This is then monitored through the induction process and probationary period and subsequently through regular one to ones with the director or their line manager. All officers below a senior level are also subject to a similar regime and discussion of the decisions they are taking and the issues around these. Where a senior officer has not yet developed appropriate competency in an area this will be highlighted using the Council's competency framework during the appraisal process, noted on the Personal Development Plan, when training will then be provided and follow up discussions held to ensure that competency is established before the delegation can be granted. In addition to one to ones, annual and 6 monthly appraisals are carried out for staff at all levels to ensure they are fully skilled to carry out their required duties. Regular team meetings are held to review all relevant issues by each service.

As well as management support provided to staff, other controls in place are:

- All Key Decisions are subject to an officer report, with Borough Treasurer and Borough Solicitor comments.
- All delegated authorities are still subject to Council policies and budget; therefore all decisions must operate within these.
- Where required by the terms of reference of an audit, internal audit will test check transactions to ensure they are authorised in accordance with the scheme of delegation.

#### Chief Executive's Office (CXO)

- a) Apart from limited financial delegation, no powers are exercised by officers in the Chief Executive's Office, bar the Assistant Chief Executive (and those powers are very limited in any case).
- b) This is managed as part of the overall management support that is provided to all staff through regular one-to-ones, appraisals, and management meetings.
- c) Training and support is provided during the probationary period of a new member of staff. If a member of staff was taking on any new task or responsibility they would be supported and monitored through one-to-ones until judged to be competent in the task.

#### Adult Social Care, Health and Housing (ASCH&H)

- a) In respect of HR matters, there are two tiers of responsibility – Designated Officer, and Chief Officer. Designated Officers are usually at Head of Service level, and will have to undergo appropriate training to undertake the role.

For recruitment purposes, every recruiting panel must have at least one member of staff on it who has received Recruitment Training.

Finance training is provided in the form of regular budget meetings between budget holders and their accountant, the frequency of which is in part determined by the complexity of the budget managed.

- b) There are not different formal arrangements for officers during their probationary periods. However, for example, since undertaking the role of Designated Officer in a disciplinary matter requires training, it is not the probationary period that is relevant, but whether the required training has happened that is.

c) Reporting arrangements.

Children, Young People and Learning (CYPL)

The appropriate use of the scheme of delegation is dependent on the competencies of the officer who is given the delegated authority.

This is managed as part of the overall management support that is provided to all staff through regular one-to-ones, appraisals, team meetings and DMTs.

CYP&L is responsible for managing staff in all aspects of their role, especially ensuring adequate training and support is provided during the probationary period. If a member of staff was taking on any new task or responsibility they would be supported to do that, and continue to be supported through one-to-ones until judged to be competent in the task.

As well as management support provided to staff, other controls are in place:

- All Key Decisions are subject to an officer report, with Borough Treasurer and Borough Solicitor comments.
- All delegated authorities are still subject to Council policies and budget; therefore all decisions must operate within these.
- Where required by the terms of reference of an audit, internal audit will test and check transactions to ensure they are authorised in accordance with the scheme of delegation.

**5. What is the role of your departmental finance and HR teams, also the corporate centre, in ensuring delegated authorities are exercised properly?**

Environment, Culture & Communities (ECC)

The Borough Treasurer retains an overview of financial control in terms of delegations and these levels are agreed with the Director. Agresso is set up to ensure that Officers cannot spend over their agreed limits nor spend on cost centres where they have not been approved. The Borough Treasurer also develops a comprehensive audit plan which is reported to the Audit and Governance Committee covering many different facets of the Council's work.

Departmental Finance teams have a role in corporate governance of financial procedures but in practice this happens through regular contact with cost centre managers and advising them of the appropriate authorisation route should they not have the appropriate power.

HR will help facilitate training but in particular will also ensure the various competence or disciplinary routes that managers occasionally have to follow are done properly.

Corporate Services (CS)

As stated above, the overriding principle in operation is that officers with delegated responsibilities need to have the competency to undertake these. The Finance, Legal and HR teams are there to support this process.

Within Corporate Services the Departmental Management Team serves as the focal

point for decision making on financial matters. In particular:

- Within the Borough Treasurer's Finance Team there is a dedicated resource (Group Accountant) to assist the Chief Executive and Director of Corporate Services with the management of their departmental budgets. This role is equivalent to that of the most senior finance officers within other departmental structures.
- The Group Accountant reports to the Departmental Management Team on a monthly basis. The report identifies forecast areas of over and underspending (including the Devolved Staffing Budget); proposed virements; new contractual commitments exceeding £50,000 and progress with capital schemes. On the basis of this report and through discussion with the Group Accountant, the Departmental Management Team decides on any actions required.
- The contents of the monthly report are drawn up following regular meetings with Chief Officers and other cost centre managers.
- The Group Accountant attends Accountants Group and chairs it in the absence of the Chief Accountant.
- The Group Accountant meets with and discusses departmental finance matters with the Borough Treasurer on a regular basis.
- In addition to the above the Departmental Management Team consider, on a regular basis, the risk register, internal audit plan and annual assurance statements (which are used as the basis of the Annual Governance Statement which is considered by the Governance and Audit Committee).

Finance and Legal are consulted on all Key Decisions and contribute to the required paper detailing the decision to be taken. Where a paper is not required it is still expected that the officer concerned will discuss the financial implications of the decision with the relevant finance officer before taking the decision.

In HR, there is a similar system in operation to that described in Finance. Both the Chief Executive and Director of Corporate Services have a dedicated HR resource to advise on all relevant matters.

Where an officer is taking a decision which will have staffing implications, they are expected to consult the relevant HR team member before taking that decision. HR officers are involved in all aspects of the people management of the department including recruitment exercises, managing sickness absences, capability and disciplinary issues (and any difficult staff matters at an early stage) and Learning and Development needs

In addition, through regular one to ones with the Director, any concerns will be raised by the BT and the CO HR regarding the exercise of delegated powers.

The Finance and HR teams in Corporate Services are also the corporate teams but they exercise departmental responsibility in respect of the directorate. The CO HR and the Borough Treasurer have regular cross-Council meetings with both the operational managers and the senior finance and HR staff in each directorate, including those from Corporate Services.

#### Chief Executive's Office (CXO)

The Chief Executive's Office is a subset of the Corporate Services budget and HR arrangements.

### Adult Social Care, Health and Housing (ASCH&H)

The most frequently used delegated authority in this department will be in respect of decisions that individuals are entitled to financial support to help them meet their care and support needs. These decisions will be exercised daily.

Care and support arrangements must be authorised via the Social Care system, Protocol. As indicated above, DMT at least annually approves the delegations for the Department. In respect of the power to authorise care packages, the relevant level of authorisation is linked to the named user's rights within Protocol, and is controlled by finance.

The delegations for contracts for provision of support to individuals are different to the delegations for entering other types of works or service contracts. In respect of the authority to enter these contracts, there is a role for both the departmental finance team and the departmental contracts team to ensure proper processes are followed. The decision to go out to tender will, for all decisions, be made at DMT level, and, depending upon the expected size of the contract will be passed up from DMT to CMT, the Executive, or the Executive Member as appropriate. As it is subject to the formal DMT process, the departmental finance team will provide comments on the paper. In addition, all papers on decisions to go to tender are circulated to the Corporate Service Efficiency Group and as such have oversight from the Head of Corporate Procurement. The decision not to go out to tender can only be made via a Waiver of Standing Orders, which must be approved by the Director where the total contract value is up to £35,000, or in the case of higher value contracts by the Chief Executive, the Head of Procurement and the Head of Legal.

Other delegations in respect of finance are the ability to authorise invoices of different values, where the authorisations are controlled within the finance system Agresso, with oversight from Corporate Finance, debt write offs, which are a responsibility delegated to the department's 151 representative directly from the Borough Treasurer, and the authority to waive income, which is exercised by the department's 151 representative and a relevant Chief Officer, in line with the department's Fairer Charging policy agreed by the Executive.

The role of HR in respect of officer delegations is limited to recruitment, organisational change and disciplinary etc processes. In respect of recruitment, the HR team ensures that any decision to recruit is appropriately authorised, by the recruiting officer's DMT member. Any decisions the department is proposing that have a possible organisational change impact will require HR input to the decision making process. In respect of disciplinary, grievance, or performance processes, the HR team's role is to ensure that the processes established by the Council policies on these matters are adhered to.

### Children, Young People and Learning (CYPL)

- It is not practical, nor desirable, for the corporate centre to oversee all delegated authorities, therefore it is the responsibility of each Manager to ensure that the authority is delegated to an Officer who has the necessary competencies, and that the Officer operates within the scope of their delegated authority.
- The link between the Department finance teams and the Borough Treasurer is important and they work together to ensure compliance with the Scheme of Delegation. This is achieved through regular meetings of the Accountants Group (chaired by the Chief Accountant, with senior finance officer representation from each

department) and regular professional one-to ones between the Borough Treasurer and the most senior departmental finance officer.

- A review of Governance is completed annually and recorded in the Annual Governance Statement, which is then considered by Governance and Audit Committee.
- The Chief Officer: Human Resources works closely with both the Chief Officers responsible for the devolved departmental HR teams and the HR teams themselves to ensure corporate policies are adhered to through the proper exercise of delegated authorities and the maintenance of professional standards. There is a 3 weekly meeting of all HR Heads of Service chaired by the CO: HR, who also has quarterly programmed meetings of the departmental Chief Officers and the HR Managers. For all departments, regular monitoring on HR related matters including matters related to delegated authority issues take place through DMT's.

**6. Please take us through a case study illustrating the application of delegated authorities in your department.**

Environment, Culture & Communities (ECC)

Two case studies are identified.

The first relates to a Modification Order Application from a member of the public claiming widths for public footpaths on the Broadmoor Estate, the claim being made on historical evidence. Research was undertaken and a report was prepared (attached) which I then determined (in accordance with the recommendation to decline the modification). Subsequently, an appeal was submitted to the Secretary of State and the BFC case was upheld.

The second practical example is informal and relates to a two year agreement (valued at £4500 per annum) to install a golf practice system at Downshire Golf Course. The golf course manager believed that participating in a new IT linked golf practice system at Downshire Golf Course would increase revenues. However, although he had the authority to enter into the contract due to its relatively small scale, he was concerned that making this investment at a time when the income at the course was under pressure due to weather and the general economic environment could be construed as an ill advised use of public money and he was sensitive about how the public might perceive the expenditure. He contacted myself and Cllr McCracken and arranged to have us visit a demonstration day where both of us discussed the initiative with the suppliers at separate times. The golf course manager had researched the success of this initiative elsewhere and other courses had seen an increase of about 25% - this would equate to a net benefit to the Council of approximately £20,000 per annum. Cllr McCracken and I discussed the matter over the phone and agreed that this expenditure was reasonable and could be justified on the basis of a better, very modern, golf practice system that should also increase income to the council. The golf course manager subsequently completed the contract and the equipment is due to be installed imminently.

Corporate Services (CS)

**Case Studies**

***The case studies given below have all operated successfully and I can't find any examples of delegations which have not worked well.***

### ***Chief Officer Property - New Letting***

Under the Constitution the CO: Property has the delegated authority to arrange a new letting for a vacant property. This case study illustrates the application of that delegated authority when a tenant of an industrial unit has decided not to renew his existing lease, serves a s27 Notices (a tenant's notice to quit) on the Landlord at the end of the tenancy and the unit becomes vacant. As the rental level is below £50k per annum, there is no requirement for the CO:P to report to the relevant Executive Member.

- Relevant officers within the Property team review the current market conditions and consider actions required and make recommendations to CO: P based on market demand.
- Property inspection: produce schedules of dilapidations or instruct building surveyors to do so if necessary and negotiate the subsequent settlements in connection with the surrender or termination of agreements or breaches of covenants;
- Advise Legal Services, Finance and Business Rates on the surrender date and arrange for any deposits to be refunded to the tenant.
- Lettings will, where possible, be at open market value. Such lettings will be on such terms to maximise the benefit of the letting in terms of financial receipt and achieving management objectives.
- Carry out a valuation and report to be signed off by an officer and CO: P who are both qualified Chartered Surveyors.
- Vacant properties will normally be marketed openly for at least two weeks.
- Having marketed a property, an evaluation exercise would be carried out for the highest bidder, including a company search, references, accounts and interview.
- The lease would normally be offered to the highest bidder provided the applicant passes the evaluation criteria and the letting is in line with management objectives for the property.
- Agree Heads of Terms and instruct Legal Services to prepare draft Lease.
- Agree a completion date and conclude the new lease

### ***Borough Treasurer – investment of funds***

Under the Constitution the Borough Treasurer has delegated authority to 'invest surplus monies in accordance with the Council's approved investment policies.'

The approved investment policies are contained within Annex E (Treasury Management Report) of the Budget Report approved by Full Council.

Through the Corporate Services Departmental Scheme of Delegation the Borough Treasurer has delegated his power to invest to members of his staff in the following terms 'The Chief Technical Accountant, Principal Accountant or the Accountancy Assistants must conduct all dealings' and 'All transactions must be authorised by either the Borough Treasurer, the Chief Accountant or the Group Accountant Corporate Services'. The critical point being that those authorising transactions are not permitted to deal.

Detailed procedures are set out in the Council's Treasury Management Practices. These were last reviewed in 2012 and signed off by the Borough Treasurer and Executive Member for Transformation and Finance.

The treasury function is subject to audit and detailed testing of transactions on an annual basis.

On 19 February 2013 £807,000 was invested with the BlackRock Liquidity Fund (an AAA rated Money Market Fund).

The daily cash flow (which determines the amount of the investment) was undertaken by the Principal Accountant. Following review by the Group Accountant Corporate Services, the investment was made by the Principal Accountant. The payment was set up by the Principal Accountant. The Borough Treasurer authorised the cash flow, the investment decision and the payment to BlackRock Money Market Fund.

#### Chief Executive's Office (CXO)

The Assistant Chief Executive has delegated authority to submit planning applications on behalf of the Council. One of the reasons why this provision was put in place was that we envisaged that the original planning application for the regeneration of Bracknell town centre would be submitted jointly with the Bracknell Regeneration Partnership. Later, it was agreed with BRP that it made more sense for the application to be submitted solely in their name so the delegated power was not exercised.

The same power was exercised in 2007 for a proposal to install a combined heat and power building in the car park to rear of Time Square. The application was never implemented.

#### Adult Social Care, Health and Housing (ASCH&H)

The Council recently (February 2013), in accordance with the Health and Social Care Act 2012, established a Local HealthWatch organisation to ensure local people have:

- Access to an organisation that will act as their independent consumer champion and ensure they have access to advice and information (signposting) about health and social care services and support so that they can make informed choices relevant to their needs.
- A strong collective voice which is heard by commissioners of services and which will inform the development or improvement of services taking into account the needs and experiences of local people.

A contract was awarded to one of three bidders. The value of the contract over its lifetime was estimated at approximately £300,000.

The Scheme of Delegation gives authority to the Director to enter into contracts worth up to £400,000. Contracts with an expected value of between £400,000 and £1,000,000 require the approval of the Executive Member. In this particular instance, given the high profile nature of the work to be undertaken, the contract award was approved by the Executive Member.

#### Children, Young People and Learning (CYPL)

Example of our financial delegation form which clearly sets out what goods and services and to what value each officer can appropriate through their delegated responsibilities.

## 7. How often are delegations used?

### Corporate Services (CS)

#### **Director**

As Director I exercise the majority of my delegations under the Constitution on a regular basis. They are key to the efficient and effective operation of the Directorate.

In respect of Section 6.3 Personnel Management, Section d) iii) these paragraphs are rarely exercised, possibly once or twice a year.

#### **Borough Treasurer**

Some delegations are used almost daily e.g. investment of surplus monies whereas others are used infrequently e.g. raising of loans and waiver of repayment "Right to Buy" discounts.

#### **Borough Solicitor**

Decisions under delegated powers on a daily basis. The vast majority of these decisions are of a routine or "technical" nature e.g. deciding whether or not to agree the drafting of a Section 106 agreement (in accordance with the parameters set by Planning Committee or the Head of Development Management acting under delegated powers) responding to correspondence threatening the issue of proceedings against the Council determining responses to FOI requests.

#### **Chief Officer: Property**

The surveyors make daily recommendations to the CO: P to ensure the continued occupancy and income flows.

#### **Head of Democratic and Registration Services**

This delegation is used on a daily basis.

#### **Chief Officer: Human Resources**

These delegations are exercised about twice a year.

### Adult Social Care, Health and Housing (ASCH&H)

The most frequently used delegated authority in this department will be in respect of decisions that individuals are entitled to financial support to help them meet their care and support needs, and decisions on whether people are entitled to housing benefit or a reduction in their council tax bill. These decisions will be exercised daily.

### Children, Young People and Learning (CYPL)

Daily as required, the intention being to enable decisions to be taken at the most appropriate level.

## 8. Do you wish to add any comments?

### Environment, Culture & Communities (ECC)

Wykery Copse Emergency Access / Bus Gate - The emergency access / bus gate into Wykery Copse was approved by the Planning and Highways Committee. In

terms of delegated authority, actions taken in this regard are restricted to approving the detailed design of the access, and subsequently agreeing to modify these in light of concerns raised by a resident which she reported via her Ward Councillor.

Children, Young People and Learning (CYPL)

Review the limit for significant procurement, anything above £35K requires specific procurement procedures. For example, this could apply to a 5 year contract of £7K spend per year. Should the threshold be raised?

**Overview And Scrutiny Working Group on Delegated Authorities: Comparing the BFC scheme of delegation with best practice guidance**

The scoping document for the O&S review of delegated authorities includes in its objectives: 'To review the delegations in place within each department, and reach a view on whether the levels are appropriate, with reference to: best practice guidance'

No single authoritative best practice guide for local government delegated authorities could be found, so use was made of various publications obtained from internet searching:

- a) New Law Journal 'Delegation's what you need', 7 December 2007
- b) Local Government Lawyer 'The art of delegation', 12 January 2010
- c) Pannone LLP, Solicitors Nicholas Dobson, Senior Consultant in the Public Sector team: 'Delegation', September 2010
- d) Independent Commission Against Corruption, New South Wales : 'Knowing your risks - Delegation of authority'
- e) The Independent Commission on Good Governance in Public Services (Office for Public Management and CIPFA) : The Good Governance Standard for Public Services, 2004
- f) Chartered Institute of Public Finance and Accountancy 'Delivering Good Governance in Local Government – Guidance Note', 2012

The key points from the above publications, together with the corresponding position understood to apply in Bracknell Forest Council, is shown in the table below.

Key Points From Guidance	Bracknell Forest Council Position
<p>1. If something's been delegated to you, you cannot delegate further. However, the maxim does not bind to the extent that there is express or implied authority to delegate and if the rule were to be applied with punctilious rigour, public administration would seize up.</p> <p>The Carltona principle:                      "Where the exercise of a discretionary power is entrusted to a named officer...another officer cannot exercise his powers in his stead unless express statutory provision has been made for the appointment of a deputy.</p>	<p>√ The power to make sub-delegations is provided for in the Constitution and appears to be used as appropriate.</p>
<p>2. Local Government Act 2000, s 13(2) provides that subject to specified exceptions any function not specified in the Local Authorities (Functions and Responsibilities) (England) Regulations (SI 2000/2853) is to be the responsibility of the council's executive. In England, LGA 2000, s 14 enables arrangements for the discharge of functions by the executive itself, another member/members of the executive, a committee/committees of the executive</p>	<p>√ This legal requirement is applied by the Council and is the starting point for the scheme of delegation</p>

or by an officer/officers of the council.	
3. Where powers are delegated to a single individual the scope of those powers must be considered carefully. The nature and scope of any delegation must be a matter of construction of the particular measure.	√ On the basis of our review, the Working Group is satisfied that careful consideration has been given before granting delegated authorities to individual Executive Members and officers.
4. The importance of having a valid scheme of delegation in place..... The importance of ensuring that the arrangements for delegation are clear and lawful.	√ The Constitution contains a comprehensive scheme of delegation, anchored to legislation, and the Working Group was shown recently reviewed delegated authority schedules for each department. We have made some suggestions to improve the quality of those schedules.
5. Need for local authority lawyers periodically to give long-established Council procedures a robust healthcheck	√ On the basis of our review, the Working Group is satisfied that the Borough Solicitor is actively involved in ensuring that the scheme of delegation is sound and up to date. However, we have recommended increased legal involvement in some aspects.
<p>6. Many allegations of corruption ..... involve the misuse of delegated authority. Managing corruption risks requires that your agency should:</p> <ul style="list-style-type: none"> <li>a) Introduce policy and procedures covering the use of delegated authority.</li> <li>b) Include in the policy sanctions for any breach of the policy and procedures.</li> <li>c) Review the policy every two years.</li> <li>d) Refer to the use of delegations in all relevant corporate documents such as codes of conduct.</li> <li>e) Train all employees with delegated authority in the policy and procedures.</li> <li>f) Ensure that the policy includes a requirement for records to be kept of all decisions taken under delegated authority.</li> <li>g) Include the use of delegations in the agency's internal audit and corruption risk management processes.</li> </ul>	√ The Scheme of Delegation, officer code of conduct, disciplinary arrangements and established practices provide for all these points, except that we have recommended an extension of record keeping [f) opposite refers] and an extension to internal audit coverage [(g) opposite refers]
7. Your risk assessment of delegating authority should consider the following risk management	√ The Scheme of Delegation and established practices

<p>strategies:</p> <p>a) Notifying, in writing, of delegation levels to any affected employees, committees and teams.</p> <p>b) Establishing a register, available to the public, of delegations that demonstrates who is acting on delegated authority and for what purpose.</p> <p>c) Ensuring that the delegations system provides for automatic reporting of decisions made under delegated authority.</p> <p>d) Ensuring that the delegation system includes processes to:</p> <ul style="list-style-type: none"> <li>- verify whether a delegation is current</li> <li>- check that temporary delegations are properly authorised, notified, recorded and archived</li> <li>- remove delegations that are no longer needed and store superseded delegations for future reference</li> </ul> <p>e) Reviewing delegations regularly, in accordance with any applicable statutory requirements (for example, in the case of local government, within 12 months of each election), to ensure that they are appropriate to the capabilities, qualifications and needs of the positions to which they apply</p> <p>f) Introducing a process to audit and review the performance of delegated functions and ensure compliance with operating procedures</p> <p>Establishing a system to check that financial payments are processed and:</p> <ul style="list-style-type: none"> <li>- the person approving the payment has delegation to do so</li> <li>- the delegated officer has not been involved in a transaction they authorised.</li> </ul>	<p>(including retaining superseded copies of the Constitution) provide for all these points, except that we have recommended improving the transparency of the delegated authority schedules [(b) opposite] , strengthening periodic reviews [(e) opposite] , and enhancing internal audit [(f) opposite]</p>
<p>8. A well-designed delegations system will:</p> <ul style="list-style-type: none"> <li>• be clear about what delegations actually exist so that delegates and everyone who deals with them know the extent of their authority</li> <li>• allow only as much discretion as is needed to perform the delegated responsibilities</li> <li>• attach accountability controls to delegated authority</li> <li>• include a review mechanism to check the use of the delegated authority over time.</li> </ul>	<p>√ On the basis of our review, the Working Group is satisfied that the attributes opposite are provided for</p>
<p>9. All decisions made under delegation should be recorded in some way ...Records should also be in an auditable format</p>	<p>√ For Executive, Executive member and Director decisions, these are all recorded and published using the Modern.gov system. From</p>

	<p>January 2013, the recoding of decisions was extended to include:</p> <ul style="list-style-type: none"> <li>(a) any decision to incur expenditure or the making of a saving of £10,000 or more</li> <li>(b) any decision taken following public consultation</li> <li>(c) any decision which would have a material impact upon ten or more persons</li> <li>(d) any decision which is taken in exercise of an express delegation made to an officer by the Executive, an Executive Committee or an individual Executive Member</li> <li>(e) a decision whether or not to list a property as an Asset of Community Value (the "Community Right to Bid" under the Localism Act)</li> <li>(f) a decision whether or not to accept an expression of interest submitted under the Community Right to Challenge.</li> </ul> <p>The use of delegated authorities by officers in their day to day work is evidenced in the applicable system, e.g. authorising payment of an invoice is recorded in the Agresso finance system.</p>
<p>10. The governing body should draw up a formal statement that specifies the types of decisions that are delegated to the executive and those that are reserved for the governing body.</p>	<p>√ This is covered in the Scheme of Delegation.</p>
<p>11. The primary functions of the governing body are to:</p> <ul style="list-style-type: none"> <li>a) establish the organisation's strategic direction and aims, in conjunction with the executive</li> <li>b) ensure accountability to the public for the organisation's performance</li> <li>c) assure that the organisation is managed with probity and integrity.</li> </ul>	<p>√ These functions are provided by: full Council, the Executive, Overview and Scrutiny, the Standards Committee and Management.</p>
<p>12. The non-executive [<i>in this case political</i></p>	<p>√ These roles are provided by: full Council, the Executive,</p>

<p><i>leadership</i>] role is to:</p> <ul style="list-style-type: none"> <li>a) delegate: non-executives help to clarify which decisions are reserved for the governing body, and then clearly delegate the rest.</li> <li>b) hold the executive [<i>in this case senior officers</i>] to account: the governing body delegates responsibilities to the executive. Non-executives have a vital role in holding the executive to account for its performance in fulfilling those responsibilities, including through purposeful challenge and scrutiny.</li> <li>c) Be extremely discriminating about getting involved in matters of operational detail for which responsibility is delegated to the executive.</li> </ul> <p>A hallmark of good governance is a clearly defined level of delegation by the governing body to the executive for decision making.....it is important that governors do not concern themselves with levels of detail that are inappropriate for their role, while ensuring that they are not too far removed.....</p>	<p>Overview and Scrutiny, and Management.</p> <p>√ Covered by the Scheme of Delegation</p>
<p>13. Set out a clear statement of the respective roles and responsibilities of members and senior officers.....Determine a scheme of delegation and reserve powers...including a formal schedule of those matters specifically reserved for collective decision....and ensure that it is monitored and updated...and reviewed at least annually</p>	<p>√ Covered by the Constitution and specifically the Scheme of Delegation, also the departmental schedules, which the Working Group saw were updated.</p>

**Overview And Scrutiny Working Group On Delegated Authorities:  
Comparing The BFC Scheme Of Delegation With Other Councils'  
Schemes**

The scoping document for the O&S review of delegated authorities includes in its objectives: 'To review how the Council's scheme of delegation compares to a small sample of other similar local authorities'.

The Lead Member decided to select West Berkshire, Isle of Wight and Wiltshire County Council as the comparators.

The published constitutions of each of those councils were briefly reviewed and notable differences are shown in the following table. The comparison did not extend to seeking access to unpublished schedules of delegated authorities within departments.

**Wiltshire Council** appeared to have higher levels of delegation to officers, perhaps due to having much higher budget (£327m net revenue budget) than Bracknell Forest.

**The Isle of Wight** Constitution in respect of delegated authorities is less prescriptive than the BFC arrangements in various aspects (e.g. '*a reasonable show of competition shall be sought as part of all contract-letting processes*'). There are some passages, e.g. around upward referral, that could usefully be considered for adoption at BFC. Where comparisons could be made, the IOW delegations are higher than BFC, e.g. Directors have unlimited authority to invite tenders and award contracts.

**West Berkshire's** scheme of delegation retains more decisions for full Council and the Executive than BFC. It is very detailed and comprehensive in specifying the types of delegations which can be exercised by officers. There are some passages, e.g. around upward referral and informing the local Ward Member(s), that could usefully be considered for adoption at BFC.

Bracknell Forest	West Berkshire	Isle of Wight	Wiltshire County Council
<p>Decisions reserved for full Council largely as stipulated in law</p>	<p>Similar to BFC but a few more matters reserved for full Council e.g. power to make payments or provide other benefits in cases of maladministration, etc. Over £2,500.</p> <p>The Personnel Committee's role is more extensive than BFC's in some respects, (e.g power to appoint staff at Head of Service level and above is reserved to the Personnel Committee), but less in others, e.g the power to approve new and revised HR policies and procedures is delegated to the Chief Executive</p>	<p>Full Council appoints chairmen and vice chairmen of O&amp;S Committee and panels, and regulatory committees.</p>	<p>Very similar to BFC. But has a Strategic Planning Committee and four area planning committees.</p>
<p>Executive Committees:</p> <ul style="list-style-type: none"> <li>- Executive</li> <li>- Town centre regeneration</li> <li>- Joint Waste Disposal Board</li> </ul>	<p>Has District/Area Planning Committees.</p>	<p>'If the Cabinet Member wishes to take a decision contrary to the advice of the relevant Strategic Director then the Cabinet Member must refer the issue to the Cabinet for a decision. If the Cabinet Members consider that any decision they are being asked to take is likely to be sensitive or controversial, then they have the discretion to refer the decision to the Cabinet for consideration.'</p>	<p>Two Cabinet Committees : Capital Assets and Business Rates Relief Committee</p> <p>18 Local Area Boards (along lines of Local Strategic Partnership) discharge certain limited executive functions</p>
<p>Scheme of delegation to Officers, e.g. contract award: &lt;£400k: Director; £400k – 1m: Director</p>	<p>'Officers shall inform the local Ward Member(s) when they exercise any delegated powers</p>	<p>'Officers should consider using their delegated powers for decisions that fall outside the</p>	<p>No details in constitution on any financial limits on directors' decision making, except £500k on</p>

<p>and Exec Member; &gt;£1m: whole Executive</p>	<p>affecting their Ward and when the matter is likely to be regarded as politically sensitive or contentious.</p> <p>It shall always be open to an Officer to consult the Executive, the Area Planning Committees, the Licensing Committee or the Leader before the exercise of delegated powers; or not to exercise delegated powers but to refer the matter to the Executive, the District Planning Committee the Area Planning Committees or to Council for decision.'</p>	<p>definition above, however they should refer to the relevant Cabinet Member any decision that is controversial or which would benefit from higher visibility by being taken either by the Cabinet Member under their delegated powers or by the Cabinet itself.</p> <p>Any decision that is likely to be contentious should be discussed with the Cabinet Member before the decision is made so that the appropriate decision making process can be agreed.'</p>	<p>virements (much higher than BFC, where Executive approve virements over £50k, and Council over £100k).</p> <p>Apparently unlimited delegation to directors to write off debts, compared to BFC where writes off over £20k require Executive approval.</p> <p>Contract award to be approved by Cabinet if for an annual value of £1 million or the total contract value exceeds £4million.</p>
	<p>The scheme gives detailed descriptions of the types of delegations which can be exercised by officers.</p> <p>A Corporate Director may act in the place of the Chief Executive where the Chief Executive is unwell, unobtainable or where there is no Chief Executive in post</p>	<p>Delegated authorities around procurement are significantly higher than BFC, e.g no formal competition required for procurements less than 320k, and the role of Cabinet is confined to confirming procurements which are very high risk or strategically sensitive.</p>	<p>Not as comprehensive or prescriptive as BFC constitution, e.g. in specifying the specific responsibilities of the Chief Executive and each Director, including exceptions and limitations..</p>

For further information on the work of Overview and Scrutiny in Bracknell Forest, please visit our website on <http://www.bracknell-forest.gov.uk/scrutiny> or contact us at:

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