

**TO: THE EXECUTIVE
12 NOVEMBER 2013**

**OVERVIEW AND SCRUTINY REPORT ON “A REVIEW OF DELEGATED AUTHORITIES”
Director of Corporate Services**

1 PURPOSE OF REPORT

- 1.1 To determine the Executive’s response to the recommendations in the report by a Working Group of the Overview and Scrutiny Commission entitled “A Review of Delegated Authorities”. This is attached as Annex A to this report

2 RECOMMENDATION(S)

That the Executive

- 2.1 Respond to the report of the Overview and Scrutiny Working Group as proposed in Section 5; and**
- 2.2 Thank the members of the Working Group for their report.**

3 REASONS FOR RECOMMENDATION(S)

- 3.1 As set out in Section 5 of this report

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Not applicable.

5 SUPPORTING INFORMATION

- 5.1 The Working Group reported that the main reason for having the review was that the Council’s delegated authority arrangements had not been reviewed across the board since the introduction of Executive Arrangements under the Local Government Act 2000. It did not commence the review due to any signs that the arrangements were faulty as there were no such indications. The report noted that delegated authorities are essential to enable an organisation as large as the council to take the large range of decisions that need to be taken every week, as without them, every decision would have to be taken by a small number of leading councillors, which it found to be completely impracticable. Under the legislation relating to Executive Arrangements, the Leader has the power to determine whether a decision shall be taken by Members or officers; the ideal is to strike a balance between risk and efficiency. The Working Group concluded that the Council has sound and well understood arrangements in place for delegated authorities, achieving an appropriate balance between the Executive taking responsibility, and empowering officers to carry out their duties, delivering essential services. It made some observations and recommendations as follows:

- 5.2 That two anomalies in the published information on the responsibilities of Executive members be clarified in that Bracknell Market is shown as being the responsibility of both the Executive Member for the Environment and the Executive Member for Economic Development, and reducing smoking is a published responsibility of the Executive Member for Culture etc. whereas it is a significant public health function for the Executive Member for health and should more fittingly be their responsibility.

Agreed. The Working Group noted two anomalies in the published scheme of the responsibilities for Executive Members. Amendment of the scheme of delegation to Executive Members is for the Leader to determine and it is recommended that the Leader be requested to address the two issues highlighted by the Working Group.

- 5.3 A three-part register of delegated powers is kept by each department, divided into operational powers specific to that department; procurement limits 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. The registers need to be stored in one place only and there should be a central register of those delegations.

Agreed. The Working Group noted some variation in the way delegated authorities were recorded and published in different departments. It is recommended that the Executive accepts this proposal, and officers will be asked to introduce a standard form of register to be published on the Council's intranet. It is proposed that the Borough Solicitor keeps the recommended central register.

- 5.4 Every two years the Corporate Management Team and the Executive should periodically review the range of delegations within the Constitution and each department. The delegated authorities registers should be reviewed at least once annually and signed off by directors. Internal audit should be commissioned to comment on departments' compliance with delegations as part of their standard approach, provided this does not entail an undue extra cost.

Agreed. The Working Group found there was a need for regular review to ensure that delegated authorities are reliable and up to date. It is recommended that the Executive accepts this recommendation, and it is proposed that the next review takes place in 2015. Departmental delegated authority registers are in practice reviewed annually. An internal audit review of compliance with delegations will be limited to delegations in relation to the subject of the audit.

- 5.5 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 to have delegated authority to sanction larger virements perhaps up to £250,000 within the school places item in the capital programme. Consideration should be given to revalue delegated authority limits in line with inflationary changes and any change in departmental budgets.

Agreed. The Working Group was persuaded that events such as increases in the numbers of children requiring education can change rapidly and the limit on virements within the school places item in the capital programme was probably too low, at £25,000. It is recommended that the Executive accepts this recommendation. The Borough Treasurer has reported that this change to schools capital virements will require an amendment to Financial Regulations. He intends to take a report on Financial Regulations to the Governance and Audit Committee in January 2014

regarding this. He will review the limits every two years alongside the general review of delegations recommended at 5.4.

- 5.6 As part of the induction process, guidance should be issued on the granting of authorities to newly appointed staff, to achieve consistency across departments.

Agreed. The Working Group observed that the Council needs to be satisfied that new officers who are to be empowered with delegated authority can be relied upon to exercise it properly, and that delegated authority should not be granted without some confidence that the officer can be trusted to exercise it responsibly. It is recommended that the Executive accepts this recommendation and if it does so, Corporate HR will amend the corporate induction checklist accordingly.

- 5.7 The Leader's scheme of Executive Delegation and the Constitution is amended to require that

(i) 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.

(ii) 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.

(iii) 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.

Agreed. Although the Working Group was confident that, in practice, decisions on sensitive issues were usually subjected to more consultation than was required under the scheme of delegation, it was of the view that such consultation would benefit from further codification.

It is possible to give effect to recommendation (i) above if the Leader amends the Executive scheme of delegation. It is already possible for an officer to decline to take a decision regarding a non-executive function if the matter is sensitive or controversial, and for Executive Functions, it would again be necessary for the Leader to amend his scheme of delegations. It is suggested that if the Leader is receptive to the recommendations at (i) and (ii) above that he seeks guidance from the Borough Solicitor. When considering this issue, it will be necessary to consider the broad term "contentious", which may be difficult to add as a requirement to a scheme of delegations, and could be implemented in practice insofar as it is not already occurring.

- 5.8 Guidance is issued to all officers with delegated authorities about their responsibilities stressing that the success of any delegated authority scheme depends on more than adhering to the financial limits.

Agreed. It is recommended that the Executive accepts this recommendation and if it does officers in Human Resources will prepare appropriate guidance.

- 5.9 A process is put in place to ensure that Ward Members are informed in a timely way of decisions that affect their ward before the effect of the decision reaches the public domain.

Agreed. It is recommended that the Executive accept this recommendation. Members' Services is piloting the co-ordination of a fortnightly Ward Alert email which will advise Members of significant upcoming activity for each Ward, such as tree

elling, disposal of sites, road closures and repairs. The first Alert was circulated on Friday 27 September. The Alert will not replace the more detailed communications that Members receive on emerging and emergency situations. Feedback on the Ward Alert process will be sought as part of the biennial Member Survey.

- 5.10 The Procurement team should issue guidance to ensure a consistent approach to the level of delegated authorities for requests for quotations, and to improve transparency of contract awards, there should be a single document/database "register of decisions" to keep records of decisions made that affect policy change and contracts above £35,000.

Agreed. The Working Group noted that in CYP&L some delegated authority tables were inconsistent in that some teams had monetary limits on their authority to obtain Requests for Quotations, whereas other teams had no monetary limits. The Working Group welcomed the greater transparency which the e-procurement system will bring to lower-level contracts. It is recommended that the Executive accepts this recommendation and subject to that, the Head of Procurement will be asked to make appropriate arrangements to issue guidance, to update the procurement manual and to enhance information collected and recorded

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The Borough Solicitor is the author this report

Borough Treasurer

- 6.2 The Borough Treasurer's comments have been incorporated into this report.

Equalities Impact Assessment

- 6.3 Not Required

Strategic Risk Management Issues

- 6.4 The recommendations of the Working Group are intended to reduce any potential risks in the functioning of the Council

7 CONSULTATION

Principal Groups Consulted

- 7.1 Not applicable

Method of Consultation

- 7.2 Not applicable

Representations Received

- 7.3 Not applicable

Unrestricted

Background Papers

Report by a Working Group of the Overview and Scrutiny Commission entitled "A review of Delegated Authorities" September 2013

Contact for further information

Simon Heard – Legal Services - 01344 353107

Simon.heard@bracknell-forest.gov.uk