

Report of the Strategic Director of Place to the meeting of Executive to be held on 7 November 2017

Subject:

AG

Delegation Scheme for Transportation and Highways Decisions

Summary Statement:

This report seeks Executive's approval to replacing the Council's current Scheme of Delegation for regulating the decision-making processes on Transportation and Highways matters which was previously approved on 21 December 2015.

This report contains a proposed replacement Scheme of Delegation for consideration and approval by Executive which addresses recent officer structure changes and the introduction of new legislation since the previous revision was adopted.

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Portfolio:

Regeneration, Planning & Transport

Overview & Scrutiny Area:

Environment & Waste

1. SUMMARY

- 1.1 This report seeks Executive's approval to replacing the Council's current Scheme of Delegation ("the Scheme") for regulating the decision-making processes on Transportation and Highways matters which was approved on 21 December 2015.
- 1.2 This report contains a proposed replacement Scheme for consideration and approval by Executive which addresses recent officer structure changes and the introduction of new legislation since the previous revision was adopted

2. BACKGROUND

- 2.1 Since its creation on 1 April 1974 the Council has adopted a general scheme of delegation to cover the responsibilities of Committees, Sub-Committees and Officers. With regard to the powers given to Officers, the general delegations have given flexibility enabling decisions to be made as efficiently and speedily as possible. Recent trends have shown that the Courts and Ombudsman are requiring greater reassurance that decisions taken within the organisation, particularly decisions by Officers have a specific and clear underpinning by stated terms of reference.
- 2.2 The current Scheme for Highways and Transportation matters as enclosed in Appendix A was approved on 21 December 2015 following a detailed review of the previous 2004 scheme. As reported to this committee the necessity to undertake regular periodic reviews of the scheme is essential in light of both changes to legislation affecting highways and transportation matters but also to ensure that the scheme reflects the posts which exist within the officer structures of the Planning, Transportation & Highways service.
- 2.3 To enable the Scheme to be updated for minor alterations of officer structures in response to the budget setting process Executive resolved to delegate approval of officer title designations (subject to the level of responsibility being equivalent) to the Strategic Director of Regeneration thereby obviating the need to refer this matter for consideration.
- 2.4 However, the review undertaken this year has identified a number of alterations which are beyond the scope of the previous resolution, namely:
 - a) Officer and departmental structures and responsibilities have been amended as a result of the Council's budget setting process meaning that posts specifically referred to in the current Scheme (see Appendix A) and departments no longer exist within current council structures.
 - b) As a result of these changes officer responsibilities have changed significantly consequently specific powers and responsibilities are no longer aligned with operational arrangements within the Planning, Transportation & Highways Service.

- c) Amendments to the Highways Act 1980 and the introduction of new legislation associated with Highways and Transportation matters have not been incorporated into the Scheme.

2.5 In the light of the above factors a revised Scheme has been developed and is included in Appendix B of this report. The key changes between the proposed version and the 2015 edition are:

- a) Redrafting the Scheme of Delegation to correctly refer to current Officer posts within the Planning, Transportation & Highways Service removing specific reference to posts which no longer exist and assigning the delegation to the appropriate equivalent officer within the current Officer structure.
- b) Introducing delegation of authorised officer status under the Clean Neighbourhoods and Environment Act 2005 to officers within the Planning, Transportation & Highways Service to enable enforcement of contraventions through the issue of fixed penalty notices including removal of vehicles being offered for sale or repaired on the highway and removal of graffiti/fly posting.
- c) Incorporation of reference to new legislation where such legislation supersedes existing Highways Act 1980 provisions (e.g. Anti-Social Behaviour Crime and Policing Act 2014) and revoking of repealed powers where appropriate.

These key changes are highlighted on the revised Scheme in Appendix B by shading.

3. OTHER CONSIDERATIONS

- 3.1 The existence of a specific Scheme of Delegation for Highways & Transportation means that Officer Decisions taken in respect of highways matters should be taken by reference to the Scheme alone. Reliance should not generally be made on paragraph 14 Part 2 Articles of the Constitution if the Scheme specifically covers a matter.
- 3.2 The opportunity should also be taken to specify clearly what legal powers are being used. However, it was stressed in the report establishing a Scheme of Delegation in November 1998 that vigilance must be maintained on the part of the Council to identify any additional powers given to the local highway authority by new legislation. This is in order to ensure that any adopted Scheme is regularly updated to take account of new legislation.
- 3.3 It is considered appropriate that in certain instances, prior notification is also sought from Ward Members as indicated by an asterix (*) against the specific provision. In the event of objections to any decision making process, the matter will be referred to the relevant Committee for consideration.
- 3.4 The amendments to the 1998 Scheme, approved in 2004, began the process of delegation of highway powers to Officers below Senior Engineer status to

improve the efficiency of staff resources on minor issues. This approach has been continued in the current iteration of the Scheme with specific delegations under Parts C & D recommending delegation of minor highway offences to Officers below Senior Engineer level thereby ensuring that these issues are dealt with by the most appropriate officer.

- 3.5 In accordance with Council policy those decisions suffixed by (ED) are Executive decisions and therefore a formal written record of the decision taken by officers and the information provided to enable such a decision to be taken must be retained.

4. FINANCE & RESOURCE APPRAISAL

- 4.1 An effective and up to date Scheme of Delegation will assist the Council in achieving effective and efficient decision making in relation to responding to service requests for highways and transportation matters.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 A fully detailed and up-to-date Scheme of Delegation will help establish the transparency of decision making.

6. LEGAL APPRAISAL

- 6.1 The Local Government Act 1972 sets out tiered levels of decision-making in local government. The Local Government Act 2000 give various models that potentially depart from the traditional system, but essentially one requirement of transparency as to where and how decisions are taken is given even more emphasis. Decisions can be made with respect to a local authority by:-

- a) The Council Meeting of all its Members
- b) A Committee established by Council
- c) A sub-committee
- d) An Officer

Officers can be empowered to make decisions by:-

- a) The Council itself
- b) The Committee, or
- c) The Sub-Committee

- 6.2 The Council's Constitution contains a general delegation of powers to certain specified officers. This is set out at paragraph 14 Part 2 Articles of the Constitution.

7. OTHER IMPLICATIONS

7.1 Equality & Diversity

There are no equality and diversity implications arising from this report.

7.2 **Sustainability Implications**

There are no sustainability implications arising from this report.

7.3 **Greenhouse Gas Emissions Impacts**

There are no greenhouse gas emissions impacts arising from this report.

7.4 **Community Safety Implications**

Effective and timely decisions in relation to highway enforcement matters can have a positive impact on the safety of the highway network for all users. The proposals contained within this report provide an efficient and effective structure within which timely decisions can be made.

7.5 **Human Rights Act**

The proposed Scheme specifically requires Officers to take account of Human Rights issues when making decisions.

7.6 **Trade Union**

There are no trade union implications associated with this report.

7.7 **Ward Implications**

There are no ward implications arising from this report.

7. **NOT FOR PUBLICATION DOCUMENTS**

7.1 None

8. **OPTIONS**

8.1 Executive may decide to adopt the proposed Scheme of Delegation as outlined in this report; or

8.2 Alternatively, Executive may decide not to approve the adoption of replacement Scheme as outlined in this report in favour of an alternative proposal.

9. **RECOMMENDATIONS**

9.1 That Executive approves the adoption of the Replacement Scheme of Delegation as set out in Appendix B to Document "AG" in substitution for the current Scheme of Delegation for Highways and Transportation Matters

9.2 That the provisions of the previous scheme of delegation dated 21st December 2015 be revoked.

9.3 That the revised Scheme of Delegation shall remain in force until such time as it may be substituted modified, varied or repealed by decisions of the Executive or such person or body inheriting the powers of the Executive or the Council.

- 9.4 That Executive delegate to the Strategic Director – Place (or such other officer with equivalent duties for the time being) the authority to make amendments to the Scheme to reflect future changes in job titles, providing the level of responsibility remains the same.

10. APPENDICES

- 10.1 Appendix A –Scheme of Delegation for Highways and Transportation Matters operational from 1 January 2016.
- 10.2 Appendix B – Proposed Replacement Scheme of Delegation 2017.

11. BACKGROUND DOCUMENTS

- 11.1 Local Government Act 1972
- 11.2 Local Government Act 2000
- 11.3 The Council's Constitution