

**Report To:** Cabinet

**Date of Meeting:** 28<sup>th</sup> June 2016

**Lead Member / Officer:** Councillor Barbara Smith

**Report Author:** Head of HR, Legal and Democratic Services

**Title:** Lead Member Scheme of Delegation

**1. What is the report about?**

1.1 The report is about the arrangements by which delegated decisions are made by Lead Members and Officers and the transparency of those arrangements for the benefit of the wider membership.

**2. What is the reason for making this report?**

2.1 To seek Cabinet's agreement to changes to the way in which delegated decisions are taken and the nature of the delegation to Lead Members

**3. What are the Recommendations?**

3.1 That Cabinet agree the Lead Member Scheme of Delegation attached as Appendix 1 to this report and the arrangements by which delegated decisions are made as set out in Appendix 2

**4. Report details.**

4.1 There have been instances over recent months where Members have questioned delegated decisions after the decision has been taken.

4.2 In these instances the complaint from Members has been that they did not know about the decision until after it had been taken, they had not been consulted, or, that they had not realised when the decision was being made and had not been able to deal with queries from residents about a particular decision. In all of these cases Members had been informed and/or consulted about the issues.

4.3 In order to address some of these concerns, the minutes of task and finish groups that involve Members have been put in a library section of modern.gov so that Members who are not on these groups can see what has been discussed.

4.4 At a recent meeting of Cabinet, Members approved the scheme of delegation for officers. There was some comment by non-Cabinet Members that there was an issue regarding Members' awareness of when decisions had actually been taken. They accepted that there were instances of consultation regarding

decisions but suggested that they were not subsequently made aware of the date of the actual decision or the detail of any changes made to the original proposal upon which they had commented.

- 4.5 At that meeting the Chief Executive suggested that the scheme be circulated to all Members of the Council in order that they could comment on the appropriateness of any delegations. This was done but no comments have been received.
- 4.6 Officers undertook to look at processes for delegated decisions in order to make them more transparent.
- 4.7 There are two main categories of delegated decision.

#### 4.7.1 Lead Member Delegated Decision

- 4.7.1.1 We currently have a process for the making of Lead Member delegated decisions which involves a report being circulated for consultation among certain officers. A report may only be put to a Lead Member for decision if the Monitoring Officer, s151 Officer and relevant Corporate Director sign it off.
- 4.7.1.2 Once the report has been signed off, the Lead Member may take the decision, and a record of decision is produced. Both the report and record of decision are published on modern.gov. The decision is then potentially subject to Call In to scrutiny for five working days from the date of publication.
- 4.7.1.3 Members will not currently have seen the report until after the decision has been made, although, often, the subject has been aired at Scrutiny MAGs or Council briefing etc.
- 4.7.1.4 The only opportunity a Member then has to influence the decision is through the Call In process which requires five Members to sign a form, and consideration by a scrutiny committee. This will often be disproportionate to the query or representation that the individual Member wishes to make.
- 4.7.1.5 In order to improve the transparency of the decision making process it is proposed that Lead Member Delegated Decision reports, once signed off by the relevant officers, be “published” to Members on modern.gov in advance of the decision being taken. Democratic Services will send Members notification that the report is available on modern.gov with a link and the date after which the decision will be taken. Members who wish to seek clarification or make representations may do so to either the Lead Member or Head of Service in advance of the decision being made.
- 4.7.1.6 This will be important as a more generic delegation to Lead Members is being proposed as a result of the review of the constitution. There

will be the opportunity for Lead Members to make more delegated decisions.

- 4.7.1.7 It is proposed that "key decisions" will be reserved to Cabinet. These decisions will be those that involve strategic corporate decisions or involve substantial impacts on communities or the budget. It will be presumed that Lead Members will be able to decide all non-key decisions that are brought to them within the limits of their portfolio. The decision, once made, will then be published to the public together with the accompanying report. There is a need to consider the length of the pre decision publication period. A period of five working days may be appropriate.

#### 4.7.2 Officer Delegated Decisions

- 4.7.2.1 Many decisions are delegated to officers, usually Heads of Service, and range from very mundane day to day operational issues to more important strategic decisions such as the letting of major contracts or cessation of certain activities. The scheme of delegation makes it clear that Heads of Service are able to make the majority of decisions relating to day to day operational matters within their areas of responsibility without recourse to Members.

- 4.7.2.2 The scheme does however contain the following important caveat:

“if a decision is likely to have a significant impact on the Councils’ profile, is likely to attract unfavourable comment in the news media, or may have substantial financial implications there will be a presumption in favour of referring it to members.”

- 4.7.2.3 A referral to Members may involve referring it to Cabinet or a Lead Member for decision. It may involve consulting Members through MAGs or Scrutiny before any decision is made by the particular officer.

- 4.7.2.4 Clearly, if a matter is referred to a Cabinet meeting or for a formal Lead Member delegated decision, the current processes involve the publication of a report and decision, giving Members who may wish to challenge the decision an opportunity to do so, and a firm decision date from which to calculate the call in period.

- 4.7.2.5 One way of doing this would be to replicate the proposed Lead Member delegated decision process in respect of those decisions which have been referred to Members for their views either through MAG or Scrutiny as described above. This would mean that there would be a short report setting out the rationale for the decision and then the decision would be published on a given date from which the call in period would run. The normal call in rules would apply. There is some bureaucracy involved in this but the great majority of decisions will not engage this process.

4.7.2.6 This will be a matter for Heads of Service to discuss with their Lead Members as to whether to refer a matter to Cabinet or to use this process for decisions which merit referral to Members.

4.7.2.7 The Constitution Working Group have expressed a wish to see this sort of arrangement in place.

## **5. How does the decision contribute to the Corporate Priorities?**

5.1 A more transparent system with greater delegations to Lead Members will contribute to the modernisation of the Council

## **6. What will it cost and how will it affect other services?**

6.1 There should be no direct costs attributed to this decision

## **7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.**

7.1 An assessment has not been conducted.

## **8. What consultations have been carried out with Scrutiny and others?**

8.1 There has been consultation with SLT and the Constitution Working Group

## **9. Chief Finance Officer Statement**

9.1 The proposals seem sensible and widen opportunities to comment on decisions before implementation.

## **10. What risks are there and is there anything we can do to reduce them?**

10.1 There is a risk that in the early operation of this system there will be a lack of clarity as to whether a decision is required by a Lead Member or an officer. Guidance notes will be produced to assist.

## **11. Power to make the Decision**

11.1 The Local Government Act 2000 gives the power to delegate executive functions to Members and Officers