

Subject: Changes to the Scheme of Delegations to Officers
Date of Meeting: 28 September 2010
Report of: Acting Director of Strategy & Governance
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Wards Affected: All

1. SUMMARY AND POLICY CONTEXT:

1.1 Proposals for the introduction of the Intelligent Commissioning system were approved by Cabinet and a number of steps have already been taken in preparation for its implementation on 1st November 2010. One of the formal requirements before implementation is amendments to the Scheme of Delegations to Officers to reflect the new arrangements. In accordance with Article 15 of the constitution, this report seeks the approval of the Governance Committee (in so far as it relates to Council functions) and the Cabinet (in so far as it relates to executive functions) to the revised Scheme of Delegations to Officers.

2. RECOMMENDATIONS:

2.1 That the Governance Committee approves the following:

- (i) That the amended Scheme of Delegations to Officers as set out in Appendix 1, to the extent that it relates to Council functions, be agreed;
- (ii) That the amended Scheme of Delegations (in so far as it relates to Council functions) comes into force on 1st November 2010;
- (iii) That the services provided by the Delivery Units on 1st November 2010 be deemed to have been commissioned and therefore authorised. This shall be without prejudice to the power to review the services at any time as part of the Intelligent Commissioning cycle;
- (iv) That the Chief executive be granted delegated powers to take all steps necessary or incidental to the implementation of the changes, including the power to make transitional arrangements;
- (iv) That the Head of Law be authorised to make any necessary or consequential amendments to the constitution to reflect the changes.

2.2 That the Governance Committee recommends to Cabinet:

- (i) That the amended Scheme of Delegations to Officers as set out in Appendix 1, to the extent that it relates to Executive functions, be agreed;

- (ii) That the amended Scheme of Delegations (in so far as it relates to Executive functions) comes into force on 1st November 2010;
- (iii) That the services provided by the Delivery Units on 1st November 2010 be deemed to have been commissioned and therefore authorised. This shall be without prejudice to the power to review the services at any time as part of the Intelligent Commissioning cycle ;
- (iv) That the functions of the Council regarding Travellers and Gypsies be transferred from the Cabinet Member for Environment to the Cabinet Member for Housing;
- (iii) That the Chief Executive be granted delegated powers to take all steps necessary or incidental to the implementation of the changes, including the power to make transitional arrangements;
- (iv) That the Head of Law be authorised to make any necessary or consequential amendments to the constitution to reflect the changes.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The implementation of Intelligent Commissioning requires amendments to the Scheme of Delegations to Officers. Article 15 of the Council's constitution sets out the procedure for amending the Scheme of Delegations. The relevant parts of Article 15 provide that:
 - (a) Any proposed permanent changes to the Scheme of Delegations to Cabinet Members or Officers are normally required to be considered by the Governance Committee before a final decision is made by the relevant decision-making body;
 - (b) Any changes to the Scheme of Delegations to Officers, in so far as they relate to Council functions, are the responsibility of the Governance Committee;
 - (c) Any changes to the Scheme of Delegations to Officers or Members, in so far as they relate to executive functions, are for the Leader or Cabinet to decide subject to the need to consult the Governance Committee as in (a) above.
- 3.2 The draft revised Scheme of Delegations to Officers is attached as Appendix 1 to this report for approval by the Governance Committee to the extent that any changes relate to Council functions and for recommendation to Cabinet to the extent that they relate to executive (Cabinet) functions.
- 3.3 It is difficult to set out Council and Executive functions in full detail without replicating the whole of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. But, in board terms, council functions include planning, licensing, general appeals, registration, elections, appointment and dismissal of officers, anything which is a local

legislation function and appointments to external bodies. Most other matters are executive functions. For practical reasons and to enable an efficient and co-ordinated discharge of functions, the Scheme of Delegations does not separate the executive and non-executive functions at officer level.

4. PRINCIPLES UNDERLYING THE REVISED SCHEME

4.1 The approach adopted in formulating the Scheme of Delegations is based on the following principles.

(1) No Change to Member-Officer Balance of power

The changes do not affect the division/balance of power between Members and Officers. Anything that requires Member approval under the present structure will continue to require Member approval under the new structure.

(2) No Change to Member Delegations

It is not proposed to make any change to the Scheme of Delegations to the Cabinet, CMM, Committees and sub-committees at this stage. The only exception to this relates to the Council's functions regarding Travellers and Gypsies which it is proposed to transfer from the Cabinet Member for Environment to the Cabinet Member for Housing. This is to reflect changes in legislation as well as enabling a co-ordinator approach.

(3) Powers of the Leader, Cabinet and Committee to exercise powers

Any delegations to Officers are without prejudice to the powers of the Leader, Cabinet Members or Committee to exercise those functions notwithstanding delegations to officers and the fact that a matter has been delegated to officers does not preclude the relevant officer from referring it to the Cabinet, CMM, Committee or Sub-Committee for decision.

(4) Framework for the Scheme of Delegations

In establishing a framework for the Scheme of Delegations, the Council has three broad options: (i) a traditional departmental structure with everything delegated to the Director or Chief Officer and others operating under authorisation from that officer; (ii) a complete separation of powers between commissioning and delivery with those commissioning and those delivering having separate and mutually exclusive terms of reference; and (iii) a system that allows freedom, independence and flexibility for delivery units but with the relevant Strategic Director having an overview of the function and the ability to intervene. It is this third model that had been adopted in developing the proposed scheme of delegations. In practice, this means:

- a. All officer functions of the Council will vest in the **Chief Executive** and **Strategic Directors**;
- b. **Lead Commissioners** and staff reporting to them will operate by way of authorisation from the relevant Strategic Directors to undertake commissioning activities in accordance with the operational procedures set out in the “commissioning framework.” The mandatory parts of the Commissioning Framework will be approved by the Strategic Leadership Board . The Strategic Director for Communities will act as the Lead Commissioner for the communities function.
- c. **Executive Heads of Delivery Units** will have concurrent delegated powers with Strategic Directors regarding the **delivery** of the functions comprised in their area of service, but this has to be exercised:
 - i. Subject to any instructions of the Strategic Director;
 - ii. The Strategic Director may suspend the exercise of any delegated powers by the Head of Delivery Unit;
 - iii. The delivery of the service has to be undertaken within the outcome and other performance indicators set by the Commissioning decision-maker providing that non-compliance will not invalidate any decision taken by a delivery unit;
 - iv. The formal reporting line (for employment matters) of the Executive Heads of Delivery units will be to the Chief Executive, although aspects of the management activity may be undertaken by the Strategic Directors at the request of the Chief Executive.
- d. On 1st November 2010, the activities currently undertaken by the Delivery Units will be deemed to have been commissioned with the relevant budgetary arrangements until such time as a commissioning review is undertaken.

4.2 Resource Functions

- 4.2.1 In relation to functions comprised in the Strategic Director of Resources (Legal & Democratic Services, Policy Analysis and Performance , HR, Property and ICT and Communications) all officer functions, except some Legal and Monitoring Officer functions (being functions required to be undertaken by the individual appointed as the Monitoring Officer or a Member of the legal profession) will vest in the Strategic Director for Resources and all staff reporting to the Strategic Director will operate under authorisation from the Strategic Director. To the extent that the

function is delivered by the City Services Delivery Unit, the Strategic Director will assume the role of the Lead Commissioner.

4.3 Finance Function

4.3.1 All finance and procurement functions will vest in the Director of Finance and staff within the Directorate will operate under a scheme of authorisation as now.

4.4 People Function (Education and Social Services)

Adults

4.4.1 The Lead Commissioner for Adult Social care and Health will be the Statutory Director of Adult Social Services (DASS) and will have direct delegated powers regarding the discharge of the Council's adult social services and health functions. As the Statutory Director of Adult Social Services, he/she will be directly accountable to the Chief Executive in respect of the discharge of the statutory function of DASS. He/she will report to the Strategic Director for People in respect of any functions other than that of the statutory role of DASS.

4.4.2. The Adult Social Services Assessment and Delivery Units will operate under authorisation of the DASS as now.

Children

4.4.3 The functions of the Council regarding Children's Services, including the statutory role of Director of Children's Services will vest in the Strategic Director of People. The two Lead Commissioners for People which relate to children's services will operate under authorisation from the Strategic Director.

4.4.4 The Executive Head of Service, Children and Families (dealing mainly with Children's Social Services) will operate under authorisation from the Strategic Director of People. There will be no Delivery Unit dealing with Schools, skills and learning. It will all be comprised in the commissioning unit which will undertake the residual delivery function.

5. Powers of the Chief Executive

5.1 All officers will be required, as now, to exercise powers in accordance with any instructions given by the Chief Executive. In addition to functions delegated to him directly, the Chief Executive may exercise any of the powers delegated to any other officer except where the function is required, as a matter of law or rules of professional practice, to be exercised by a particular person of a member of a particular profession.

- 5.2 The Chief Executive will, as now, have the power to determine any issues regarding the interpretation of the scheme of delegations.

6. Transitional Period

- 6.1 Between 1st November and 31st March 2010, the Chief Executive and the Strategic Directors will put the various Officer, budget and other practical arrangements to fully operate the Intelligent Commissioning system. Although it is intended that the system comes into being on 1st November, as has happened in the past when changing the way the Council operates, there are likely to be occasions when it will not be reasonably practicable for everything to be in place on 1st November. It is therefore proposed, in line with normal practice, that the Chief Executive is given delegated powers to deal with issues that may arise, including making transitional arrangements.

7. CONSULTATION

- 7.1 All staff directly affected by the changes were consulted and any comments taken on board. There has also been a briefing with the Leaders' Group and Informal Cabinet on the principles and tables showing the allocations of responsibility at a high level.

8. FINANCIAL & OTHER IMPLICATIONS:

8.1 Financial Implications:

The structural changes brought about by the introduction of Intelligent Commissioning are reflected in the proposed, revised Financial Regulations elsewhere on this agenda. Any financial implications arising from the introduction of intelligent commissioning were covered as part of previous reports to Cabinet.

Finance Officer Consulted: Patrick Rice

Date: 20.09.2010

8.2. Legal Implications:

- 8.2.1 These are set out in the body of the report

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 17.09.2010

8.3 Equalities Implications:

- 8.3.1 There are no adverse equalities implications arising from the Scheme of Delegations itself.

8.4 Sustainability Implications:

8.4.1 There are no sustainability implications arising from the proposals in the report.

8.5 Crime & Disorder Implications:

8.5.1 None

8.6 Risk & Opportunity Management Implications:

8.6.1 There is likely to be some unfamiliarity with the new structure and ways of working which could lead to delays or possibly actions not being properly authorised. However, there will be training and information sharing sessions for Members and officers that should minimise such risks.

8.7 Corporate / Citywide Implications:

8.7.1 The adoption of the Scheme of Delegations will enable the council to proceed with Intelligent Commissioning which will assist the Council in its "Council the City Deserves" initiative.

SUPPORTING DOCUMENTATION

Appendices:

1. Draft Scheme of Delegations for Officers

Documents in Members' Rooms

1. None

Background Documents

1. Existing constitution and previous reports to Cabinet on Intelligent Commissioning

