

Report



Democratic Services Committee

Part 1

Date: 20th February 2020

Item: 4

Subject Revised Scheme of Delegation to Officers

Purpose To agree an updated and revised Officer Scheme of Delegation for recommendation to Council

Author Head of Law and Regulation

Ward All Wards

Summary As part of the forward work programme and the terms of reference for Democratic Services Committee, the Committee is required to keep under review the Council's constitutional governance arrangements.

In accordance with the Council's approved scheme of delegation, which is set out at Part 3 Appendix 3 of the Council's Constitution, a number of statutory functions are delegated to Heads of Service who are authorised to discharge these duties in behalf of the Council. The Officer Scheme of Delegation was last reviewed and updated in October 2017 and since that time there have been a few legislative changes and amendments to Council procedures. These changes and amendments need to be incorporated into a revised and updated scheme of delegation for adoption by full Council.

For the most part, the previous officer scheme of delegation does not require substantive revision. However, since the last review, new legislation has been introduced to deal with sustainable drainage systems ("SuDS") for new developments and additional delegated powers need to be granted to the Head of City Services to enable him to determine applications and all other related functions under Schedule 3 of the Flood and Water Management Act 2010 on behalf of the Council as the SuDs Approving Body ("SAB").

In addition, the existing scheme has been updated to reflect the scheme of delegation granted by full Council to the Head of Regeneration Housing and Investment to determine minor property transactions, as previously recommended by Democratic Services Committee.

Proposal To agree the proposed amendments to the Scheme of Delegation to Officers and to recommend to Council that it is adopted as Part 3 Appendix 3 of the Constitution.

Action by Head of Law and Regulation

Timetable Immediate

This Report was prepared after consultation with:

- Chief Executive
- Head of Finance
- Head of People and Business Change
- Heads of Service and Corporate Management Team.

Background

1. As part of the forward work programme and the terms of reference for Democratic Services Committee, the Committee is required to keep under review the Council's constitutional governance arrangements. Section 37 of the Local Government Act 2000 requires the Council to keep up-to-date and publish its written Constitution. The written Constitution forms part of the Council's Policy Framework and any amendments must, therefore, be formally approved and adopted by full Council.
2. In accordance with the Council's approved scheme of delegation, which is set out at Part 3 Appendix 3 of the Council's Constitution, a number of statutory functions are delegated to Heads of Service who are authorised to discharge these duties in behalf of the Council. The Officer Scheme of Delegation was last reviewed and updated in October 2017 and since that time there have been a few legislative changes and amendments to Council procedures. These changes and amendments need to be incorporated into a revised and updated scheme of delegation for adoption by full Council.
3. Schedule 3 of the Flood and Water Management Act 2010 – Sustainable Drainage Systems (SuDS)

As from January 2019, Schedule 3 of the Flood and Water Management Act 2010 introduced new statutory duties in relation to sustainable drainage for new developments. All new developments of more than 1 dwelling house or where the construction area is 100 square meters or more, will require sustainable drainage systems ("SuDS") for surface water. The SuDS must be designed and built in accordance with Statutory SuDS Standards published by the Welsh Ministers. The legislation also requires surface water drainage systems to be approved by the Council as the designated SuDS Approving Body ("SAB") before the commencement of construction work with drainage implications. The legislative requirements have been introduced on a phased basis in Wales but the full scheme is now in force

4. As SAB, the Council has statutory responsibility for approving and, in specified circumstances, adopting the approved drainage systems. This will involve evaluating and determining SuDS applications, inspecting the drainage work during the course of construction operations and, subject to compliance with statutory standards and conditions, approving and maintaining drainage systems. This will require formal adoption agreements and payment of agreed commuted sums and maintenance payments, if the Council is to take over responsibility for the adopted drainage systems.
5. In order to discharge these functions on behalf of the Council as the SAB and to determine SuDS applications under Schedule 3 of the Flood and Water Management Act, it will be necessary for the Council to grant delegated powers to the Head of City Services, under the officer scheme of delegation.
6. The SuDS application process is entirely separate and distinct from the planning application process, although they can be submitted as part of a combined application. The Council acting as the SAB is separate from the Local Planning Authority and, therefore, the approval processes need to be entirely independent within the Council's decision-making arrangements. A developer may be granted planning approval but not meet the requirements of the SAB process and vice versa. Therefore, the determination of SuDS applications cannot be delated to Planning Committee. Furthermore, SAB approval and adoption duties are technical approval processes akin to Building Regulations technical approval rather than planning decision making.
7. Therefore, it is recommended that these technical decisions relating to the approval and adoptions of SuDS applications and drainage schemes are delegated to the relevant Head of Service, in the same way as Building Regulation applications and the adoption of highways. In this case, the relevant Head of Service is the Head of City Services, as the responsible officer for drainage matters.
8. The proposed additions to the current Officer Scheme of Delegation are set out at section 12.10 of the revised scheme of delegation for the Head of City Services (attached at Appendix A)

9. Minor Property Transactions

The opportunity has also been taken to update the officer scheme of delegation to include the delegated powers granted by full Council to the Head of Regeneration Housing and Investment to determine minor property transactions, as previously recommended by Democratic Services Committee. The necessary additions to the current Officer Scheme of Delegation are set out at section 11.10 of the revised scheme of delegation for the Head of Regeneration Housing and Investment (attached at Appendix A).

10. Because the Officer Scheme of delegation forms part of the Council's written Constitution and this, in turn, forms part of the Council's Policy framework, then the proposed amendments to Part 3 Appendix 3 of the Council's Constitution will need to be recommended to full Council for approval and adoption.

Financial Summary

11. There are no financial implications.

Risks

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Not updating and revising the officer scheme of delegation	H	M	Failure to update the scheme of delegation would be contrary to the requirements of Section 37 of the Local Government Act 2000, would be contrary to the principles of transparent and accountable decision-making and could lead to decisions being legally challenged.	Head of Law & Regulation
Updating and revising the officer scheme of delegation	L	L	There would be a clear allocation of functions within the Constitution and transparent and lawful decision-making.	Head of Law & Regulation

Links to Council Policies and Priorities

12. Clear and transparent decision-making is fundamental to the work of the Council and the delivery of the Corporate Plan. Ensuring that the appropriate governance arrangements are in place is also consistent with the sustainability duty under the Future Generations and Well-Being Act and the well-being goals of a more equal Wales and a Wales of cohesive communities.

Proposal

13. To agree the proposed amendments to the Scheme of Delegation to Officers and to recommend to Council that it is adopted as Part 3 Appendix 3 of the Constitution.

Comments of Chief Financial Officer

14. There are no financial implications

Comments of Monitoring Officer

15. Set out in the Report

Staffing Implications: Comments of Head of People and Business Change

16. There are no staffing or policy implications

Background Papers

Part 3 Appendix 3 of the Council's Constitution

Dated: 10th February 2020.