

**REVIEW OF TEMPORARY DELEGATIONS TO OFFICERS****REPORT OF THE ASSISTANT DIRECTOR OF LAW AND GOVERNANCE****1.0 BACKGROUND**

- 1.1 At its meeting on 25 March 2020, in view of the situation with the COVID-19 pandemic, Council agreed that non-executive functions that ordinarily would be determined by a Committee or Sub-Committee, would be determined by the appropriate Chief Officer, in consultation, so far as reasonably practicable, with the relevant Chair. It was also agreed that these arrangements would be subject to review at the next Council meeting.

**2. PROPOSALS IN RESPECT OF TEMPORARY DELEGATIONS**

- 2.1 It is important that the democratic decision-making process operates effectively, whilst also ensuring, particularly in respect of regulatory decisions such as those relating to planning and licensing matters, that decisions can be taken in accordance with applicable timescales. Whilst the Council has started to hold remote meetings, it is still early days for this new method of conducting formal meetings. Experience to date, together with information shared by other authorities, is that remote meetings are more resource intensive than meetings held in person and consideration of business generally takes longer. The development of members' and officers' proficiency in participating in remote meetings is an ongoing process, and as part of that, it has also become clear that consideration needs to be given to the suitability of electronic devices available to access meetings, in order to ensure the ability of all members to participate fully.
- 2.2 For the reasons above and in view of the ongoing challenging circumstances and uncertainties with the pandemic, it is recommended that a level of flexibility is maintained. It is proposed that the relevant Chief Officer liaises with the appropriate Committee Chair, in respect of all matters that ordinarily would be referred to a Committee or Sub-Committee, to determine which are of such a nature that it would be appropriate for them to be referred to the Committee or Sub-Committee for decision, rather than be determined by the Chief Officer. This will enable decisions to be taken promptly, whilst also ensuring that appropriate matters, for example, those of a complex or a particularly contentious nature, are referred to members for determination.

- 2.3 Should the temporary delegations remain in place as proposed, this will continue to override any arrangements under which a Member may refer a matter to a Committee or Sub-Committee for decision. In addition, where planning matters are considered by a Committee or Sub-Committee, ordinarily there is the opportunity for those who have submitted written representations in respect of an application to also have the opportunity to make verbal representations. This procedure does not apply in respect of applications determined by the Chief Officer. It is proposed that while meetings are being held remotely, when an application is referred to Committee for determination, the Chief Officer, in consultation with the Chair, will determine whether enabling verbal representations to be made would assist the Committee in determining the application. If considered that it would do so, the officer will make arrangements to enable this to take place. Whether or not it is determined that verbal submissions would assist the Committee, written representations made by objectors, supporters and ward members, would of course continue to be considered.
- 2.4 These arrangements will be kept under review in the light of the prevailing situation with the pandemic and having regard to Government guidelines. It is recommended that they be reviewed further at the next ordinary Council meeting, if they have not been discontinued beforehand by the Chief Executive, in consultation with the Leader.
- 2.5 As referred to in the report to March Council, Chief Officers may authorise members of their service area to act on their behalf under the terms of internal delegation schemes, and this will continue in the usual way. In addition, the arrangements for dealing with situations where a Chief Officer is unable to act will continue, namely that where the relevant Chief Officer has a conflict of interest or is absent or unable to act for any other reason, the Chief Executive will nominate another Officer who will be authorised to make the decision in question. In the absence of the Chief Executive, the Executive Director of Corporate Services will make the nomination. As is already the case under the Constitution, the Chief Executive may themselves exercise any function delegated to an Officer.

### **3.0 AUTHORISATION OF OFFICERS TO UNDERTAKE SPECIFIC FUNCTIONS**

- 3.1 The report to March Council also confirmed that where legislation gives authority to officers to take specific action when they have been appointed or authorised by the Council to undertake particular functions, the Chief Executive and/or other relevant Chief Officer may authorise or appoint individual officers to undertake the function concerned. This can be of particular relevance in the enforcement arena, where legislation occasionally requires certain functions to be undertaken by officers in their own name, rather than in the name of the Chief Officer.

In view of the importance of this, particularly in the current pandemic situation, it is recommended that a provision to expressly state this authority to designate officers is included in the Constitution.

#### **4. RECOMMENDATIONS**

##### **4.1 Council is recommended**

- 4.1.1 to authorise Chief Officers, in respect of those areas for which they have managerial or professional responsibility, to determine, in consultation with the Chair of the relevant Committee or Sub-Committee, whether the Chief Officer or relevant Committee or Sub-Committee will determine any matter normally determined by the Committee or Sub-Committee, in accordance with the arrangements set out in this report,
- 4.1.2 subject to 4.1.1 above, to the extent permitted by law, to authorise the relevant Chief Officer with professional or managerial responsibility for the function concerned, to determine matters normally determined by a Committee or Sub-Committee,
- 4.1.3 to agree that the relevant Chief Officer, in consultation with the Chair, may determine the procedure to be followed at a remote meeting including, in respect of those Committees or Sub-Committees where ordinarily members of the public or other parties would have the opportunity to address the Committee or Sub-Committee verbally, to determine whether such arrangements be put in place,
- 4.1.4 in respect of the matters referred to in 4.1.1 to 4.1.3 above, to review the arrangements at its next ordinary meeting, unless prior to that meeting, the Chief Executive has determined, in consultation with the Leader, that the temporary additional delegations to officers should cease, and
- 4.1.5 to authorise the Assistant Director of Law and Governance to include a provision in the Constitution to the effect that where a particular function under legislation is to be carried out by an officer authorised, appointed or designated by the Council to undertake the function concerned, the Chief Executive and/or other Chief Officer with professional or managerial responsibility for the relevant function or service area concerned, may authorise, appoint or designate such officers.

#### **BACKGROUND PAPER**

[Report to Council 25 March 2020: Cabinet Report on Update to Constitution – Changes to Committee Structure and Officer Delegation Scheme.](#)

