

Governance Committee
20 January 2020
Part I
Officer Delegations – Constitutional Provisions
Report by Director of Law and Assurance

Summary

A request has been made to set out the arrangements within the Constitution for the delegation of functions to officers and more specifically the recent change made to the allocation of responsibilities in connection with staff disciplinary matters. Separately the Chairman received a letter from the Chairman of Regulation, Audit and Accounts Committee asking whether the Governance Committee should look at the arrangements for staff grievances. A copy of the letter is attached at Appendix 1.

The report summarises the position and members are asked to indicate whether a review of any of the arrangements described is required.

Recommendation

That the report is noted and that members advise whether any further work should be undertaken.

1. Background and Context

- 1.1 All local authorities operate with the assistance of a scheme of delegation which explains where authority sits for the exercise of the powers and responsibilities of the Council. Most day-to-day decisions will be taken by officers but those must be taken within a scheme which identifies the source of authority for such decisions.
- 1.2 All local authority decisions may be categorised as executive or non-executive. This has significance for elected members as only executive decisions may be taken by a single member (cabinet member). Non-executive decisions must be taken by a committee or by full Council. Officers can have authority to take both executive and non-executive decisions.
- 1.3 The County Council sets out the scope of all delegated authority through its scheme of delegation – Part 3 of the constitution. It describes the authority given to the various non-executive committees and the authority given to cabinet and cabinet members. Appendix 4 to the scheme sets out the officer scheme of delegation. It describes the specific functions allocated to officers identified by their post. The responsibilities of the statutory officers – those whose responsibilities are defined in law rather than by the Council - are also described in the scheme. The scheme is laid out in a table using functional headings for ease of reference.

- 1.4 Defining the scope of the functions delegated to officers, with the exception of the prescribed statutory responsibilities, is the responsibility of the Governance Committee. The Committee can vary, add to or remove specific delegations. No officer can change the scope of the scheme of delegation. Any officer to whom a function is delegated can delegate that function further and can provide for further onward delegation so that every officer can trace their authority to take decisions back to the scheme over which the Governance Committee has control.

2. Arrangements for officer structure and role allocation

- 2.1 At its meeting in November 2016 the Committee approved changes to the structure of the senior officer leadership team. This was accompanied by a full revision of the scheme of delegation – allocating most operational decisions to Directors. Authority was given to the Chief Executive to make any further changes he, as head of the paid service, determined. The Chief Executive was also authorised to make any changes to the scheme of officer delegation as he advised, provided there was no change to the scope of officer delegations or any changes to member functions – which remain with the Governance Committee.
- 2.2 Since that time there have been some changes made to the make-up and structure of the senior officer teams. Consequential changes have been made to the scheme of officer delegation. These are reported to members through the Member Bulletin. The most important issue for members is likely to be to know who is responsible for which areas of the Council's business at any one time. The current version of the scheme of officer delegation provides this. A simplified chart setting out the main areas of officer responsibility is also available and is regularly updated.

3. Staff appeals

- 3.1 The Governance Committee also has responsibility for the oversight of staffing matters, including terms and conditions of service and arrangements for the appointment of senior officers. It also has responsibility for the arrangements for staff appeals. This is discharged through the Appeals Panel – a pool of 18 members from whom boards of appeal are drawn to hear individual appeals from members of staff. The Council's disciplinary policy provides staff with the right to appeal to such a Board against their dismissal. The Council's grievance policy provides a similar right where it is shown that the process of grievance was flawed or new information has come to light since the grievance outcome or for some other substantive reason.
- 3.2 At its meeting in June 2018 the Committee considered a number of options to change the arrangements for staff appeals – aimed at clarifying the responsibility in the process of the Chief Executive as head of the paid service. The report to the Committee showed that no comparator authorities have such extensive involvement of elected members in staff disciplinary or grievance processes.
- 3.3 The Committee agreed to a small change to the arrangements – to provide for the Chief Executive to sit on Boards of Appeal to advise and assist the members who retain the authority to take the decision.

- 3.4 For the sake of clarification there is no requirement for the Chief Executive or nominee to sit on the Board of Appeal and the current proposal is that, save in exceptional cases, the Chief Executive will not sit on Boards of Appeal but will ensure that the Board is fully and properly advised.
- 3.5 Referring to the letter attached at Appendix 1 from the Chairman of the Regulation, Audit and Accounts Committee it should be explained that there have been no concerns raised identifying any inadequacy in relation to the staff grievance policy. A review of the effectiveness of the procedures will however be identified as part of the overall review of internal practice and governance as part of the response to the recommendations in the Children's Commissioner's report. Any proposals for change will be brought to this Committee. Responsibility for oversight of the Council's whistleblowing policy falls to the Standards Committee. The Director of Law and Assurance is currently reviewing and revising the policy and will bring a report to the next meeting of the Standards Committee.

4. Conclusion

- 4.1 The report is provided for information to the Committee to aid any discussion about the constitutional arrangements and to seek advice about whether any aspect of the arrangements require further work or review.

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Appendix 1 – letter from the Chairman of the Regulation, Audit and Accounts Committee

Background Papers

None