

By: Mr Eric Hotson, Cabinet Member for Corporate and Democratic Services
Benjamin Watts - Monitoring Officer

To: County Council
13 December 2018

Subject: Officer Delegations - amendments

Classification: Unrestricted

Summary: To consider the amendments to officer delegations as set out in the report and recommended by the Selection and Member Services Committee to the County Council for approval

Recommendations: That the County Council approve the following amendments to officer delegations:

- (a) Delegation of authority under Section 64 of the Land Drainage Act 1991 (powers of entry for internal drainage boards and local authorities) be given to the Director of Environment, Planning and Enforcement.
- (b) Delegated authority to enter into agreements under section 106 of the Town and Country Planning Act 1990 be extended to the Director of Highways, Transportation and Waste
- (c) Paragraph 1.4 of Appendix 2 of Part 3 of the Constitution be amended to read:

“Senior Managers may, in turn, delegate their powers to more junior officers, **or escalate the making of those decisions to the relevant Corporate Director**, but must ensure that such delegations are documented to the satisfaction of the Monitoring Officer and are regularly reviewed.”

1. Introduction

(1) The Selection and Member Services Committee at its meeting on 14 November agreed to recommend to the County Council the approval of the delegation of a number of non-Executive functions to officers. The proposed amendments are explained below and set out in the tracked changed extract of Appendix 2 Part 3 of the Constitution attached as an Appendix to the report.

2. Land Drainage Act 1991 - Section 64 - Powers of entry for internal drainage boards and local authorities

(1) Under Section 64 of the Land Drainage Act 1991 the Council has powers to authorise officers to enter land for the purposes of exercising any flood management functions under this section which include inspecting any land and inspecting the condition of any drainage work.

(2) This delegation is not set out in the Constitution. In order for this to be exercised by officers it is recommended that, under Section 64 of the 1991 Act the Director of Environment, Planning and Enforcement be authorised to enter land for the purposes of exercising any flood management functions. The delegation to the Director of Environment, Planning and Enforcement would be in line with the other Land Drainage Act delegations and, in accordance with the general scheme of officer delegations would enable the Director to sub-delegate this function to her officers under a signed notification lodged with the Monitoring Officer

3. Section 106 of the Town and Country Planning Act 1990 - Power to enter into agreements regulating development or use of land

(1) Currently in Appendix 2 Part 3 of the Constitution the power under Section 106 of the Town and Country Planning Act 1990 to enter into agreement regulating development or use of land is delegated to the Director of Environment, Planning and Enforcement, the Director of Economic Development or the Director of Property and Infrastructure. This power has not formally been delegated to the Director of Highways, Transport and Waste in the current version of the Constitution.

(2) In order to regularise this situation, the County Council is requested to approve the power to enter into agreements under Section 106 of the Town and Country Planning Act 1990 be extended to the Director of Highways, Transportation and Waste.

4. General non-executive delegation to enable senior officers to escalate the making of non- executive delegations to the relevant Corporate Director

(1) During initial work on the review of the Constitution an anomaly has been found between the way in which the executive delegations to officers and the way in which the non-executive delegations to officers can be exercised.

(2) Under the executive functions delegated to officers (Appendix 2 Part 4 of the Constitution paragraph 16 (c))

“Senior Managers exercising delegated powers will continue to be able to sub-delegate those functions to more junior officers, **or escalate the making of those decisions to the relevant Corporate Director**, who can then (if appropriate) refer the matter to the Cabinet Member or Cabinet, as now”

(3) There is no explicit provision for the exercising of non-executive powers delegated to Directors to be escalated to the relevant Corporate Director. In order to regularise this situation, it is recommended that paragraph 1.4 of Appendix 2 Part 3 be amended to include this authority, see wording in bold below:

“Senior Managers may, in turn, delegate their powers to more junior officers, **or escalate the making of those decisions to the relevant Corporate Director**, but must ensure that such delegations are documented to the satisfaction of the Monitoring Officer and are regularly reviewed.”

5. **Recommendations:** That the County Council approve the following amendments to the non-executive delegations to officers the Constitution:

(a) Delegation of authority under Section 64 of the Land Drainage Act 1991 (powers of entry for internal drainage boards and local authorities) be given to the Director of Environment, Planning and Enforcement.

(b) Delegated authority to enter into agreements under Section 106 of the Town and Country Planning Act 1990 be extended to the Director of Highways, Transportation and Waste

(c) Paragraph 1.4 of Appendix 2 of Part 3 of the Constitution be amended to read:

“Senior Managers may, in turn, delegate their powers to more junior officers, **or escalate the making of those decisions to the relevant Corporate Director**, but must ensure that such delegations are documented to the satisfaction of the Monitoring Officer and are regularly reviewed.”

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Background Information: *none*