

REPORT OF THE DIRECTOR
OF LEGAL & GOVERNANCE

Review of Delegation Limits and Restrictions
on Reporting and Recording of Delegated Decisions

1. **Purpose of Report**
 - 1.1 To seek approval for changes to the financial limits for Cabinet Spokesperson and officer delegated decisions and arrangements for reporting and recording, as part of a review of corporate processes.
2. **Recommendations**
 - 2.1 That the increase in all of the general officer financial decision thresholds from £50,000 to £250,000 be approved, together with the changes to the specific financial thresholds and revisions to other delegations set out in the Appendix.
 - 2.2 That the officer virement limit also be increased from £50,000 to £250,000.
 - 2.3 That, in exercising their delegated powers, officers continue to brief Cabinet Spokespersons, as appropriate.
 - 2.4 That the increase in the financial threshold for Key Decisions from £250,000 to £500,000 be approved.
 - 2.5 That the implications of the above recommendations for decision-making by Cabinet Spokespersons be noted.
 - 2.6 That reports for delegated decision by Cabinet Spokespersons no longer be considered in advance by the Senior Management Team, subject to the Assistant Director Governance and Member Support ensuring appropriate consultation with Corporate Core officers and the Overview and Scrutiny Committee Chairs and the Constitution be amended accordingly.
 - 2.7 That the requirements for the recording of officer decisions be noted and the Director of Legal and Governance issue appropriate guidance to officers.
 - 2.8 That the financial threshold for recording of officer decisions that materially affect the financial position of the Council be set at £250,000.
3. **Background**
 - 3.1 The Council's Executive Arrangements include details of the extent to which power is delegated to Cabinet Spokespersons and officers. The Constitution sets out in detail what decision-making powers are either reserved for full Council or Cabinet or delegated to officers, with any decisions falling between the two falling to the relevant Cabinet Spokesperson.

- 3.2 For officers, delegated powers tend to fall into two categories: general provisions that apply to all officers; detailed functions or powers that fall to specific officers. The former include financial limits on decision-making, the current limit for most spending set at £50,000 subject to provision having been made in the budget for that specific item. The main exception is the approval of staff regradings and restructures, where the officer financial threshold is £100,000.
- 3.3 Most spending decisions exceeding £50,000 fall to the relevant Cabinet Spokesperson, up to the value of £250,000. Decisions exceeding £250,000 fall within the definition of a Key Decision and are currently reserved for decision by Cabinet, as well as requiring a range of other procedures to be followed, such as giving of public notice.
- 3.4 In addition to these financial limits and restrictions on the level at which decisions are taken, the Constitution includes requirements for how Executive Decisions, including those by officers, are processed and recorded. Some of these fall from statutory regulations, requiring details of options and information considered in taking decisions to be recorded and published. Other have been developed locally to require the Council's Senior Management Team to consider reports before they are referred to the relevant Cabinet Spokesperson for decision.

4. Current Position

- 4.1 As work has been undertaken to develop the Future Council arrangements, a number of issues have emerged as causing bottle necks in getting work done effectively. The Council's decision-making process has been identified as an area of concern, given that there tends to be more "process" associated with making a decision at, say, Cabinet level than under officer delegated powers.
- 4.2 A review of the level of delegations and associated process has therefore been undertaken to consider any changes that can be recommended.

5. Review of Financial Limits and Other Officer Delegations

- 5.1 The current general financial limits on decision-making of up to £50,000 for officer decisions and £250,000 and above for Key Decision requiring Cabinet approval were established in August 2003. Given inflation over this period, there would be merit in raising these thresholds to £250,000 and £500,000 respectively. In terms of the Key Decision threshold, if the threshold was increased this would require full Council approval. It should be noted that the Government's original intention that there should be some consistency in Key Decisions across, say, the sub-region appear no longer to apply, as it should be noted that Rotherham MBC has already increased its threshold to £500,000, and Doncaster MBC's remains at £250,000.
- 5.2 In addition to the various general officer financial limits, there are a number of financial limits set for specific functions and powers exercised under delegated powers. Whilst there would be merit in having a common threshold for all of these, the variation in the nature of these means that it would be inappropriate to make them all the same. Appendix 1 lists these issues, with recommendations as to the amounts to which they should be raised.

- 5.3 In exercising their delegated powers, officers already routinely brief the relevant Cabinet Spokespersons on forthcoming decisions where this is likely to have a significant policy, service or community impact. It is intended that this will continue with the changes in delegation limits.
- 5.4 The impact of raising the financial thresholds is that any decisions above £250,000 (or any other amount as indicated in Appendix 1) but not exceeding £499,999 will fall to the Cabinet Spokesperson. Any approvals above £500,000 (that is Key Decisions) would continue to come to Cabinet. It should be noted that any policy decisions that involve expenditure below £250,000 would still be referred to the relevant Spokesperson or Cabinet in line with current practice.
- 5.5 In the course of considering proposals for revised financial limits, officers were asked to consider any other revisions to delegations that would reduce delays and bureaucracy. These changes are also set out in Appendix 1, and generally relate to removing consultation requirements for relatively minor estates management issues.

6. Virement Limits

- 6.1 In addition to the financial limit on spending decisions, officers also have delegated authority to vire amounts up to and including £50,000 in any one instance within a service in their respective Directorate budgets. This applies to budgets for employees, premises, supplies and services, and transport, and is subject to the rules and other exclusions within Financial Regulations and the associated Code of Practice. For consistency, it is proposed that the financial limit on virement also be increased to £250,000.

7. Recording and Processing of Officer Executive Decisions

- 7.1 From the outset, the 2000 regulations establishing the rules around Executive Arrangements required the recording of decisions made either by Cabinet or individual Cabinet Spokespersons. This included the publication of details of information and options considered, and compliance was generally achieved in Barnsley by the requirement for any such decisions to be on the basis of a written report.
- 7.2 Regulations in 2012 extended this requirement to executive decisions considered by officers. Further regulations in August 2014 clarified the requirement for the reporting of officer decisions, but apparently extended this to some non-executive decisions. Arrangements for recording officer decisions are in place following the 2012 regulations, but these now need to be reviewed to take account of the 2014 regulations. It is proposed that the Director of Legal and Governance consider the overall requirements of the regulations and issue appropriate guidance to officers, having regard to the need to minimise the administrative requirements.
- 7.3 The 2014 regulations make specific reference to the reporting of officer decisions to award a contract or incur expenditure that materially affects the Council's financial position. Guidance to the regulations indicate that it is for the relevant local authority to determine this level. It is proposed that the relevant financial threshold for this Council will be £250,000.

8. Processing of Cabinet Spokespersons Delegated Decisions

- 8.1 When the current Executive Arrangements were established in 2001, the intention was that all Member decisions would be taken collectively by Cabinet. A review of decision-making in 2003 established the current arrangements for delegated decision making by Cabinet Spokespersons to alleviate some of the pressure on Cabinet's time. However, this was on the caveat that any reports would be considered by Senior Management Team (SMT) to ensure compliance with corporate requirements as the Council made a significant change to its decision-making arrangements. These arrangements are confirmed within the Constitution.
- 8.2 The Assistant Director Governance and Member Support operates the processing of these reports through to SMT to meet this requirement. At the same time, arrangements are made for any report to be drawn to the attention of the Overview and Scrutiny Committee Chairs through the staff who support the scrutiny process. This was originally introduced to provide an opportunity for Scrutiny to review the matters in question, in a similar way to those going forward to Cabinet.
- 8.3 The issues contained in reports for delegated decision by Cabinet Spokespersons are relatively trivial when compared with other business considered SMT. It is therefore proposed that these reports should no longer go through SMT. However, these issues will still need formal reports that will be subject of internal officer consultations particularly with officers in the Corporate Core. Arrangements will also be needed to ensure that the Overview and Scrutiny Committee Chairs are aware of the proposals. These reports will therefore continue to be processed through the Assistant Director Governance and Member Support who will ensure that appropriate consultation has been undertaken.

9. Financial Implications

- 9.1 There are no specific financial implications arising from this report, although the reduction in bureaucracy associated with these changes should allow resources to be applied to more important work.

10. Employee Implications

- 10.1 These revisions will require some changes to practices within Directorates, which will directly impact on the staff involved. However, it would be hoped that there will be greater clarity about the decision-making processes, which will improve work flows. Once the new arrangements are approved, appropriate guidance will be issued by the Assistant Director Governance and Member Support.

11. Appendices

Appendix 1 - Schedule of other officer delegations.

12. Background Papers

12.1 The Constitution of the Council and various statutory regulations relating to Council decision making.

12.2 Available for inspection in the Legal & Governance Directorate, Town Hall, Barnsley. Telephone (01226) 773421 or email governance@barnsley.gov.uk for more information.

EXTRACT FROM EXECUTIVE RESPONSIBILITIES – OTHER ISSUES FOR REVIEW

DELEGATION	PROPOSED CHANGES
12. Director of Finance, Property & Information Services	
<p>(c) to exercise the mandatory and discretionary powers of the Council under the Housing Benefit Regulations 2006, the Social Security Contributions Act 1992, the Social Security Administration Act 1992 and the Social Security Administration (Fraud) Act 1997 and associated legislation, including authority to write-off of debts:</p> <ul style="list-style-type: none"> • up to an amount of £5,000 in the case of discretionary write-offs; 	<p>Up to £100,000 – Assistant Director Financial Services</p> <p>In excess of £100,000 – Director of Finance, Property and Information Services</p>
<p>(o) Risk management, the provision of adequate insurance cover, and the negotiation and settlement of insurance claims, together with associated administration, and the settlement of personal injury, Road Traffic Act and housing disrepair claims up to £100,000, and associated administration.</p>	<p>No change</p>
<p>(y) In consultation with the Chief Executive, relevant Executive Director and/or Director, where appropriate, to approve virement under £50,000 between revenue heads within a service.</p>	<p>Increase to £100,000</p>
<p>(ac) To authorise the writing off of individual debts under £5,000 in each case;</p>	<p>Increase to £25,000</p>
4. Head of Strategic Property & Procurement	
<p>(f) In consultation with the Director of Legal & Governance to undertake agency and consultancy work for various outside bodies.</p>	<p>Transferred to Director of Legal and Governance</p>
<p>(g) In consultation with the Assistant Director (Culture & Regulation), to serve notices under the Landlord and Tenant Acts and negotiate new tenancies, for permanent stalls and shops in markets.</p>	<p>Delete – covered in revised (l) below</p>

DELEGATION	PROPOSED CHANGES
(i) To negotiate and settle tilt claims for subsidence.	To negotiate and settle tilt claims for subsidence, including those arising from Fracking or HS2.
(l) To manage and oversee the investment portfolio, including negotiation of leases and tenancies, and to deal with any subsequent assignments, changes of use, modification of covenants and the implementation of rent reviews/ lease renewals, providing that the transactions are at the best price reasonably obtainable.	To manage and oversee the investment portfolio and markets property, including negotiation of leases and tenancies, and to deal with any subsequent assignments, changes of use, modification of covenants and the implementation of rent reviews/ lease renewals, providing that the transactions are at the best price reasonably obtained.
<p>(m) In consultation with the Chief Executive, the Director of Legal & Governance and relevant Executive Director, where appropriate, all matters relating to asset management, and without prejudice to the generality of the foregoing:-</p> <p>(iii) The letting of land and buildings for periods not exceeding seven years, subject to local Member and Parish Council consultations, provided that the transactions are at the best price reasonably obtainable;</p> <p>(iv) Rent reviews of leases and tenancies and revenue producing agreements;</p> <p>(v) The grant and extinguishment of easements, wayleaves and access agreements, subject to local Member and Parish Council consultations;</p> <p>(vi) The taking of easements, wayleaves and access agreements for the benefit of the Council, where the associated costs can be contained within existing budgets subject to Local Member and Parish Council consultation, where appropriate;</p>	<p>The letting of all land and buildings (including grazing, garden and garage sites) for periods not exceeding seven years, provided that the transactions are at the best price reasonably obtainable;</p> <p>Rent reviews of all revenue producing agreements held by way of lease/tenancy or licence agreement;</p> <p>The grant and extinguishment of easements, wayleaves and access agreements;</p> <p>The taking of easements, wayleaves and access agreements for the benefit of the Council, where the associated costs can be contained within existing budgets;</p>

DELEGATION	PROPOSED CHANGES
(vii) The giving of the Council's consent, as landlord, to assignments, sub-lettings, changes of use, modification of covenants and the erection of buildings, subject to local Member and Parish Council consultation, as appropriate;	The giving of the Council's consent, as landlord, to assignments, sub-lettings, changes of use, modification of covenants and the erection of buildings, subject to the notification of Local Members and Parish Councils, as appropriate;
<p>(viii) The release of restrictive covenants on land and property where the value of the release of the covenant does not exceed £100,000, subject to Local Member and Parish Council consultation;</p> <p>(xviii) To manage and oversee the housing shop units, including negotiation of leases and tenancies, and to deal with any subsequent assignments, changes of use, modification of covenants and the implementation of rent reviews/ lease renewals, providing that the transactions are at the best price reasonably obtainable, subject to Local Member and Parish Council consultation, where applicable.</p>	<p>The release of restrictive covenants on land and property where the value of the release of the covenant does not exceed £100,000;</p> <p>To manage and oversee the housing shop units, including negotiation of leases and tenancies, and to deal with any subsequent assignments, changes of use, modification of covenants and the implementation of rent reviews/ lease renewals, providing that the transactions are at the best price reasonably obtainable;</p>
(n) To complete wayleave agreements with British Telecom for the installation of telecommunications apparatus, ducts and cables to schools and libraries, subject to consultation, where necessary, with respective head teachers, the Executive Director Children, Young People and Families and the Executive Director Customer and Neighbourhood Services.	Delete – duplicated elsewhere in delegations
New Item	The acquisition of small areas of land containing up to 0.25 acres and having an estimated value not exceeding £10,000, subject to consultation with the relevant Cabinet Spokesperson, Local Members and Parish Council, as appropriate.

DELEGATION	PROPOSED CHANGES
10. Executive Director Adults and Communities	
(c) To exercise the Council's functions in the provision of improvements and adaptations to a disabled persons' home under section 2(1)(e) of the Chronically Sick and Disabled Persons Act 1970 to a limit of £15,000 in respect of each application.	Increase to £100,000
17. Assistant Director (Development)	
(k) To respond to consultations from Berneslai Homes on proposals for the demolition of properties as part of planned stock reduction programme Category 1 and Category 2 schemes below £250,000 in value, where Local Ward Members are in agreement.	This delegation is no longer required
(z) To set the amount charged (between the set range of charges £200 to £500, as at December 2004) for each individual Developer Information Packs produced in accordance with the Housing Act 2004.	The requirement for Developer Information Packs has been abolished so this delegation is no longer relevant
19. Head of Highways, Engineering and Transportation	
(as) to require works to maintain the flow of watercourses under Section 25 of the Land Drainage Act 1991 (subject to costs not exceeding an estimated £5,000) – Note: Power reserved to Cabinet by minute 200 of 17th September 2008, as approved by full Council on 6th November 2008.	Reinstate the delegation as follows: (as) to require riparian owners to undertake works to maintain the flow of watercourses under Section 25 of the Land Drainage Act 1991, in cases where this cannot be achieved by negotiation, subject to the costs not exceeding an estimated £100,000, the relevant Cabinet Spokesperson to give approval where this amount is exceeded

DELEGATION	PROPOSED CHANGES
20. Assistant Director (Culture and Regulation)	
<p>(d) To undertake property inspections, investigations, surveillance, interviews, determination of prohibitions, assessments, seizures, detentions, recording, service of statutory notices, evictions, authorisations, and legal proceedings under the legislation applicable thereto set out below, and to exercise all other relevant powers, including powers of entry provided under such legislation:</p> <p>[List of Acts or Regulations]</p>	<p>Delete the following from the list:-</p> <ul style="list-style-type: none"> • Property Misdescriptions Act 1991 • Products of Animal Origin (Third Country Imports) (England) Regulations 2006 • Animal By-Products (Enforcement) (England) Regulations 2011 <p>Add the following to the list:-</p> <ul style="list-style-type: none"> • Consumers, Estate Agents and Redress Act 2007 • Trade in Animals and Related Products Regulations 2011 • Animal By-Products (Enforcement) (England) Regulations 2013