

The City of Edinburgh Council

10.05am, Thursday, 26 September 2024

Scheme of Delegation to Officers – September 2024

Executive/routine
Wards

1. Recommendations

- 1.1 That the proposed amendments to the Scheme of Delegation to Officers, as detailed in paragraphs 4.2 and 4.4 of this report, be approved with immediate effect.

Dr Deborah Smart

Executive Director of Corporate Services

Contact: Andrew Rose, Democratic Services Manager

Legal and Assurance Division, Corporate Services Directorate

E-mail: andrew.rose@edinburgh.gov.uk | Tel: 07395 357493

The City of Edinburgh Council

Scheme of Delegation to Officers – September 2024

2. Executive Summary

- 2.1 The purpose of this report is to detail proposed amendments to the Scheme of Delegation to Officers (the Scheme) to achieve the outcome agreed by Council at its meeting held in March 2024.

3. Background

- 3.1 The Scheme is the document which details which powers and authority is delegated to officers of the Council to determine and make decisions on matters without recourse to the Council or one of its committees. It is a requirement of the Local Government (Access to Information) Act 1985.
- 3.2 At its meeting held on 21 March 2024 the Council considered proposed changes to the Scheme regarding Estates Services and short term let licenses. During its consideration the Council agreed that “all policy changes are a matter for committees and Councillors and requests the Director of Corporate Services bring a report to Council in 3 cycles with further changes to the scheme of delegation to tighten up the scheme, particularly in relation to section 1.5, section 2 and any other relevant sections, to ensure all policy decisions are taken by Councillors through Committees, as set out in statute”.

4. Main report

- 4.1 The Scheme is already worded to ensure that matters of policy are not to be taken by officers and that such decisions are the responsibility of the Council or one of its committees to make. Section 1.5(b) of the Scheme states that “the decision or action must not alter or be contrary to law or to policy set by the Council and its committees”. This clearly stipulates that matters of policy are reserved to the democratic decision-making process.
- 4.2 However, whilst the wording of section 1.5(b) clearly lays out that no decisions can be made that are contrary to policy, it does not implicitly refer to a new policy. It is therefore proposed that this section be amended to read “the decision or action

must not alter or be contrary to law or to policy set by the Council and its committees and must not seek to introduce a new policy". (underlined text is new wording)

- 4.3 Section 2 of the Scheme details the limits upon officer decision making in relation to significant decisions. Section 2.1 reads "where a decision or action proposed to be taken under delegated powers is likely to be regarded as politically controversial or is a decision ("Material Decision") that will have or is likely to have:-

- (a) Significant effect on financial, reputational or operational risk, and/or
- (b) A significant impact on service delivery or performance

the appropriate elected members will be consulted before any decision or action is taken. Appropriate elected members will include the relevant Convener or Vice-Convener(s) and, where appropriate, the Leader and/or Deputy Leader".

- 4.4 It is proposed, to further strengthen this section and to give comfort to elected members that officers will ensure that the role of elected members is recognised, that Section 2.1 of the Scheme be amended to include the following text immediately following that already in place:-

"Where there is no legislation or Council policy agreed setting the relevant framework and a proposed decision could be considered politically controversial or a material decision, then a report should be submitted to the Council or a Committee for consideration and decision."

- 4.5 It is considered that the proposed changes to the Scheme, as detailed above, will remove any ambiguity that may exist about the limits and scope of the authority delegated to officers through the Scheme.

5. Next Steps

- 5.1 If Council agrees to the proposed changes to the Scheme, an updated Scheme of Delegation to Officers will be produced and issued.

6. Financial impact

- 6.1 There is no financial impact.

7. Equality and Poverty Impact

- 7.1 There is no equality and poverty impact.

8. Climate and Nature Emergency Implications

- 8.1 There is no climate and nature emergency implications.

9. Risk, policy, compliance, governance and community impact

- 9.1 If Council is minded not to approve the proposed amendments to the Scheme as detailed in this report, it does not provide officers with de facto authority to take decisions on matters of policy and/or material decisions outside the scope of the Scheme. However, the additional text proposed in this report seeks to remove any ambiguity as to the limits on officers delegated authority.

10. Background reading/external references

- 10.1 [Report to Council on 21 March 2024 - Scheme of Delegation to Officers 2024](#)
- 10.2 [Council Minute - 21 March 2024 \(paragraph 5 refers\)](#)
- 10.3 [Scheme of Delegation to Officers 2024](#)

11. Appendices

None