

## **Cabinet**

Tuesday, 29 September 2020 at 2.00 pm

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## **SUPPLEMENTAL AGENDA**

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5. <b>Constitution Review - Officer Delegations</b>	<b>1 - 10</b>

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**Subject: Constitution Review – Officer Delegations**  
**Report of: John Softly, Interim Monitoring Officer**  
**Portfolio: All**

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## Report Summary

This report recommends the approval of a revised scheme of officer delegations.

## Recommendations

Cabinet is recommended to:

1. approve the revised scheme at Appendix A;
2. authorise the Interim Monitoring Officer to incorporate the revised scheme in the Constitution and make any consequential changes to other parts of the Constitution to ensure consistency.

### 1. Background Information, Proposals and Timetable for Implementation

- 1.1 With the expansion of NTCA's work programme, it is important that its decision-making processes are efficient and agile to respond to these increasing demands (which, since 1 April 2020, also include acting as the accountable body for the North East LEP).
- 1.2 Accordingly, at its July meeting, Cabinet agreed a new set of Financial Regulations including Contract Standing Orders. The existing scheme of officer delegations, which was originally adopted by NTCA in November 2018, has now also been reviewed and it is proposed to expand those delegations as summarised below.

### 2. Proposed changes

- 2.1 The proposed scheme identifies a number of officers as "designated officers" who can exercise the delegated functions allocated to them in the scheme. These designated officers are the Head of Paid Service, Chief Finance Officer, and Monitoring Officer (who were previously identified as delegated officers) but now also include the Director of Economic Growth and Director of Policy and Performance, as well as the Chief Executive of the North East LEP (whose delegation relates to North East LEP matters only).
- 2.2 The proposed scheme sets out a number of general delegations which apply to all designated officers and are intended to ensure that such officers have the necessary delegations in place to carry out their day-to-day duties and manage staff in their areas. The general delegations also set out authorisations for officers to award contracts for goods, services and works up to £189,000 (ie the OJEU threshold for goods and services contracts) and award grants and loans up to £100,000, provided that all decisions are in compliance with Financial Regulations. In addition, the scheme sets out a number of specific delegations to the statutory designated officers, ie the Head of Paid Service, Chief Finance Officer and Monitoring Officer.
- 2.3 As set out above, it is intended that the new scheme will enable operational decisions to be made by officers in accordance with the policy and strategy approach set by Cabinet. Clearly,

it also remains possible for Cabinet to agree additional officer delegations when considering reports for specific programmes or projects if Cabinet agree this is appropriate.

### **3. Potential Impact on Objectives**

3.1 The revised scheme is intended to ensure effective operational decision-making and so support the Authority in the delivery of its objectives.

### **4. Key Risks**

4.1 The revised scheme is not considered to present any risks.

### **5. Financial and Other Resources Implications**

5.1 There are no direct financial implications arising from this report.

### **6. Legal Implications**

6.1 The Interim Monitoring Officer is the author of this report.

### **7. Equalities Implications**

7.1 There are no direct equalities implications arising from this report.

### **8. Inclusive Economy Implications**

8.1 There are no direct inclusive economy implications arising from this report.

### **9. Climate Change Implications**

9.1 There are no direct climate change implications arising from this report.

### **10. Consultation and Engagement**

10.1 The proposed changes have been developed in consultation with senior officers.

### **11. Appendices**

Appendix A - revised scheme of delegation

### **12. Background Papers**

North of Tyne Combined Authority Constitution

### **13. Contact Officer**

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## Part 2.9 – Scheme of Delegations

### Introduction

1. Section 101 of the Local Government Act 1972 enables NTCA to delegate any of its functions to its officers. This part of the Constitution specifies those powers of the Cabinet which, for the time being, are exercisable from time to time by officers of NTCA and stating the title of the officer in question by whom the powers are exercisable.
2. Designated Officers in the context of this Constitution means the Head of Paid Service, the Chief Finance Officer, the Monitoring Officer, the Director of Economic Growth and the Director of Policy and Performance, and (for North East LEP matters only) the Chief Executive of the North East LEP.
3. The delegated powers of Designated Officers set out in this Scheme may be exercised by other officers (“Authorised Officers”) authorised by the Designated Officer with the delegated power to act on their behalf and in their name, provided that administrative procedures are in place to record the authorisation and monitor decisions taken.
4. The exercise of delegated powers by officers is required to be in accordance with:
  - a) statute or other legal requirements, including the principles of public law, the Human Rights Act 1998, statutory guidance and statutory codes of practice;
  - b) this Constitution including (but not limited to) the Cabinet Rules of Procedure and Financial Regulations currently in force;
  - c) the revenue and capital budgets of NTCA, subject to any variation thereof which is permitted by NTCA’s Financial Regulations; and
  - d) any policy or direction of the Cabinet or any other committee acting in exercise of powers delegated to that committee by the Authority.
5. Officers may **not** exercise delegated powers where:
  - a) the matter is reserved to the Cabinet by law or by this Constitution;
  - b) the matter is a function which cannot by law be discharged by an officer;
  - c) the Cabinet, or a committee, sub-committee or joint committee to which NTCA is a party, has determined that the matter should be discharged otherwise than by an officer;
  - d) the Head of Paid Service has directed that the officer concerned should not exercise a delegated function in special circumstances.
6. Before exercising delegated powers, particularly on matters involving the reputation of the Authority, officers should consider the advisability of consulting the Head of Paid Service and/or the Mayor or (in his/her absence) Deputy Mayor.

7. Where, in relation to an item before the Cabinet, or a joint committee, committee or sub-committee, a Designated Officer is given specific authority to determine a particular matter, the officer should ensure that there is an appropriate audit trail to evidence such determination.
8. Any reference in this Scheme of Delegation to any enactment shall include a reference to any amendment or re-enactment of the same.
9. All decisions made by officers under delegated authority will be fully recorded.

**A. General Delegations to all Designated Officers**

- GD1 To carry out the routine management of the functions of the Authority in accordance with the responsibilities allocated to the Designated Officer.
- GD2 To seek any regulatory approval or other consent from an external party which is reasonably required to progress a project, scheme or programme which has been approved by Cabinet or any officer acting under delegated powers.

**Contracts**

- GD3 To authorise (subject to Financial Regulations) the procurement process for a contract for goods, works and/or services up to a value of £189,330.
- GD4 To authorise (subject to Financial Regulations) the award of a contract for goods, works and/or services up to a value of £189,330.
- GD5 To authorise contract extensions and variations to contracts up to:  
a) a value of £30,000 on contracts up to £500,000 in value; and  
b) a value of £75,000 on contracts above £500,000 in value.
- GD6 To authorise the disposal of surplus or obsolete equipment up to a limit of £25,000 in value to the person submitting the highest quotation.

**Grants and loans**

- GD7 To award and sign (subject to Financial Regulations) a grant offer or agreement within an approved budget up to £100,000.
- GD8 To award and sign (subject to Financial Regulations) a loan offer or agreement within an approved budget up to £100,000.
- GD9 To approve or reject claims for payment made under a grant (or loan) offer or agreement.
- GD10 To approve a variation of conditions attached to grant or loan funding where there is no material impact on the approved project or its outcomes, including (but not limited to) variations to:

- outputs and/or milestones (including their phasing)
- funding draw-down dates or repayment profile
- key performance indicators (KPIs)
- reduce the amount of funding provided

GD11 To approve the use of contingency budgets in projects (in accordance with any grant conditions relating to the use of those budgets), where the value of contingency use is no more than £50,000.

### **Staffing**

GD12 Subject to the Authority's Constitution (including Financial Regulations and Officer Employment Procedure Rules), HR policies and acting within the approved budget:

- a) to create and appoint officers to staffing positions to carry out the functions of the Authority (or the North East LEP as appropriate) for which the Designated Officer has responsibility provided that the creation of a position at (or regrading to) JNC level or above shall be subject to approval by the Head of Paid Service and Chief Finance Officer); and
- b) to manage and deal with all staffing matters (including disciplinary action and dismissal) in respect of the said officers.

### **B. Delegations to the Head of Paid Service**

HPS1 To discharge the functions of the Head of Paid Service in relation to the Authority as set out in section 4 of the Local Government and Housing Act 1989. The duties of the Head of Paid Service are to report to the Cabinet where necessary setting out proposals with respect to the coordination of the Authority's functions, the number and grades of staff required and the organisation, appointment and proper management of the Authority's staff.

HPS2 To engage officers on behalf of the Authority to coordinate its functions.

HPS3 To discharge any function of the Authority which has not been specifically delegated to another officer, Committee or reserved to the Cabinet under Part 2.1 of this Constitution, and may direct any officer not to exercise a delegated function in special circumstances unless they are required to do so by law.

HPS4 To take any operational action which is required as a matter of urgency in the interests of the Authority, in consultation (where practicable) with the Mayor or Deputy Mayor, the Monitoring Officer and the Chief Finance Officer.

HPS5 To take steps to protect the rights and interests of the Authority subject to consultation with the Mayor or Deputy Mayor in relation to any Bill or Statutory Instrument or Order in Parliament.

HPS6 To conduct before either House of Parliament any proceedings (including the retention of Parliamentary Agents and Counsel) connected with the passage of any Private Bill which the Authority has resolved to promote or oppose, including the

negotiation and agreement of amendments to any such Bill, and the negotiation and approval of any terms, agreement or undertaking offered in consideration of the Authority not opposing any Private Bill.

- HPS7 To nominate, appoint and remove, in consultation with the Mayor or Deputy Mayor, Authority representatives on the board of companies, trusts and other bodies, and to agree constitutional arrangements for such companies, trusts and other bodies, and give any necessary consent required within the relevant constitutions.
- HPS8 To provide a comprehensive policy advice service to the Authority and, in particular, to advise on the Authority's plans and strategies included in the Budget and Policy Framework.
- HPS9 To control and co-ordinate press and media relations, the organisation of press conferences, publicity and public relations within prescribed policy including approval of the issue of all official Authority publicity and official publications.
- HPS10 To be the authorised representative of the Authority in respect of any company established pursuant to section 323 of the Companies Act 2006 (as amended) and any other company of which the Authority is a member.
- HPS11 To take an urgent decision where a decision needs to be made urgently and it is not practical to convene a quorate meeting of the Cabinet or relevant committee or subcommittee of the Authority, in consultation with the Chair (or in their absence a Vice Chair) of the Cabinet or relevant committee or subcommittee, the Chief Finance Officer and the Monitoring Officer.
- HPS12 To authorise (subject to Financial Regulations) the procurement process for a contract for goods, works and/or services up to a value of £500,000.
- HPS13 To authorise (subject to Financial Regulations) the award of a contract for goods, works and/or services up to a value of £500,000.
- HPS14 To authorise (in consultation with the Chief Finance Officer and the Monitoring Officer) contract extensions and variations which exceed the thresholds in GD5 above.

**C. Delegations to the Chief Finance Officer**

- CFO1 To effect the proper administration of the Authority's financial affairs particularly in relation to financial advice, procedures, records and accounting systems, internal audit and financial control generally.
- CF02 To take all action required on borrowing, investment and financing subject to the submission to the Cabinet of an annual report of the Chief Finance Officer on treasury management activities and at six-monthly intervals in accordance with CIPFA's Code of Practice for Treasury Management and Prudential Codes.

- CF03 To effect all insurance cover required in connection with the business of the Authority and to settle all claims under such insurances arranged for the Authority's benefit.
- CF04 To prepare manuals of financial and accounting procedures to be followed by officers of the Authority and the constituent councils working on Authority matters.
- CF05 To accept grant offers on behalf of the Authority, subject to all the terms and conditions set out by the grant awarding body.
- CF06 To submit all claims for grant to the UK Government or the European Union (EU).
- CF07 To make all necessary banking arrangements on behalf of the Authority, to sign all cheques drawn on behalf of the Authority, or make arrangements for cheques to be signed by other officers or to arrange for such cheques to bear the facsimile signature of the Chief Finance Officer.
- CF08 To monitor capital spending and submit a report to the Cabinet at not more than quarterly intervals. This report will separately identify the capital expenditure relating to schemes promoted by the Authority.
- CF09 In relation to revenue expenditure under the control of officers, to consider reports of officers on any likely overspending, and to approve transfers between expenditure heads up to a maximum of £25,000, provided that, where it is not possible to finance an overspending by such a transfer, the matter shall be referred to the Cabinet for consideration of a supplemental estimate.
- CFO10 To collect all money due to the Authority and write off bad debts.
- CFO11 To supervise procedures for the invitation, receipt and acceptance of tenders.
- CFO12 To administer the scheme of Mayoral allowances.
- CFO13 To discharge the functions of the 'responsible financial officer' under the Accounts and Audit (England) Regulations 2015 including the requirement under Regulation 8(2) to sign and date the statement of accounts, and certify that it presents a true and fair view of the financial position of the Authority at the end of the year to which it relates and of the Authority's income and expenditure for that year.
- CFO14 To discharge the functions of the Authority under the Accounts and Audit (England) Regulations 2015 (with the exception of Regulations 4(3), 6(4) and 8(3)).
- CFO15 To sign certificates under the Local Government (Contracts) Act 1997.

CFO16 To be the officer nominated, or to nominate in writing another officer, as the person to receive disclosures of suspicious transactions for the purposes of the Proceeds of Crime Act 2002 and any Regulations made thereunder.

CFO17 To determine an amount (not exceeding the sterling equivalent of €5,000) being the maximum sum which the Authority will receive in cash without the express written consent of the Chief Finance Officer.

CF018 To exercise the responsibilities assigned to the Chief Finance Officer in the Financial Regulations.

### **Supporting the Audit Regime**

CFO19 To support the Audit and Standards Committee by:

- a) providing or procuring independent assurance on the effectiveness of the risk management framework and the associated control environment;
- b) providing or procuring independent examination of the organisation's performance and how this affects the Authority's control environment and its exposure to risk; and
- c) overseeing the financial reporting process.

### **D. Delegations to the Monitoring Officer**

MO1 The Monitoring Officer is authorised to:

- a) institute, defend or participate in any administrative action and/or in any legal proceedings;
- b) sign any document in any case where such action will facilitate the carrying out of decisions of the Cabinet; or in any case where the Monitoring Officer considers that such action is necessary to protect the Authority's interests, or to further or achieve the objectives of the Authority; and
- c) settle or otherwise compromise any such administrative action or legal proceedings if they have been commenced or there are reasonable grounds for believing such actions or proceedings may be contemplated.

MO2 After consulting with the Head of Paid Service and Chief Finance Officer, to report to the Cabinet if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration as determined by the Local Government Ombudsman. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

MO3 To provide a comprehensive administrative service to the Authority.

- MO4 To accept on behalf of the Cabinet in-year changes to the membership of committees, sub-committees and joint committees. These changes must be notified in writing to the Monitoring Officer and will be effective when receipt of the notification is acknowledged in writing by the Monitoring Officer.
- MO5 To make minor changes to the Constitution and its associated documents to reflect organisational or legislative change when the power remains unaltered.
- MO6 To make any textual or grammatical corrections to the Constitution and its associated documents.

**Supporting the Standards Regime**

- MO7 To be the Proper Officer for receipt and acknowledgement of complaints of failure to comply with the Members' Code of Conduct under the Authority's adopted local arrangements.
- MO8 To receive and review complaints received in respect of any alleged breach by a Member of the Code of Conduct for Members and to act in accordance with the Authority's adopted local arrangements.
- MO9 To conduct or arrange for investigations to be conducted into alleged breaches of the Members' Code of Conduct and, as appropriate, to submit reports to the Audit and Standards Committee in accordance with the Authority's adopted local arrangements.
- MO10 To undertake informal resolution of such complaints in accordance with the Authority's adopted local arrangements.

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