

Board Paper

Date

29 June 2023

Title

Delegation Policy

Report Author

Andy Lester, Head of Business Strategy and Planning

Responsible Executive Director

Richard Greenhous, Chief of Staff

Paper for decision

Open paper

Issue

1. This paper proposes a series of amendments to the delegation policy to encourage efficiency and in light of the maturity of our operations and the continuing development of our assurance framework.

Recommendation

2. The Board is recommended to approve the amended delegation policy at Annex A and to its subsequent publication.

Background

3. A delegation policy is required by the Environment Act and is reserved to the Board to decide. Our first policy was agreed in February 2022, and has been varied a number of times since as new delegation requirements have been identified.
4. Our policy sets out a general policy for delegations, and a scheme of financial and non-financial delegations for specific decisions required in exercising our functions.
5. The Board's effectiveness review identified a desire for the Board to move increasingly from the operational to the strategic. The Executive Directors have similarly considered how to enable greater efficiency and protect management capacity for appropriately strategic discussion and decisions.

6. Our wider assurance framework has developed significantly in the last 15 months as our operations have matured, we have consolidated and embedded the roles of teams, team leaders and the Executive, and as we have taken decisions under the delegation policy and developed systems of reporting and flows of information.
7. The delegation policy has not been subject to a full review since being agreed.

Analysis

8. Annex A sets out a proposed amended delegation policy. Comments are provided to explain each change proposed.
9. In summary clarifying revisions are proposed to the delegation policy:
 - a. To clarify that the existing provisions which allow a line manager (and others higher in the line management chain) to exercise functions delegated to any employee also apply in circumstances where consultation with an employee is required.
 - b. To simplify the document where unnecessary drafting has been identified.
10. A series of revisions is proposed to the non-financial scheme of delegation to improve efficiency by delegating specific functions further in the organisational structure where our operational experience, or systems of control and assurance support such further delegation:
 - a. Delegation of decisions on redactions to the Board's papers to the Head of Business Strategy and Planning in light of our experience and the principles established through the Chief Executive's redactions in the last two years (para 1.12). This also supports our approach to create a centre of expertise in respect of information requests, where further specific delegations are sought to enable efficient decision-making (paras 8.4 to 8.7)
 - b. Delegation of decisions to take no further action in respect of complaints that do not meet our eligibility, seriousness or prioritisation criteria to the Head of Complaints, Investigations and Enforcement from the Chief Regulatory Officer (para 5.9) and in respect of complaints that do to the Chief Regulatory Officer from the Chief Executive (para 5.10)
 - c. Delegation of approval of all policy approval to the Chief Executive from the Board, and for non-strategically significant policy to Executive Directors (para 6.1 and 6.2). This is the sole variation to the matters reserved to the Board. We judge we have few strategically significant policies. Given the decision for what is 'strategically significant' is reserved to the Chief Executive in consultation with the Chair, there is a control mechanism that provides for policies to be recovered for the Board by the Chair if further assurance is desired.
 - d. Increasing the de minimis thresholds for the existing delegated authority for Executive Directors to approve the objectives for, and initiation of, projects (para 10.4 and 10.5). The Chief Executive will remain the decision maker in other cases, as necessary with notification to the Board.

11. New delegations have been identified in relation to:
 - a. Arrangements for entering into contracts on behalf of the OEP (paras 3.5 to 3.7). This is to ensure appropriate authority for signatures, and affixing the OEP seal and are intended to complement the delegations for the financial approvals needed in the financial scheme of delegation.
 - b. Our ways of working with Defra, to specify who can request information formally under the duty to cooperate (para 3.8), and who can disclose information received under the duty to cooperate to others. This is to make explicit the controls we have implemented, as we develop appropriate ways of working.
12. A number of simplifying or clarifying amendments to language are proposed, and a number of delegations are proposed to be deleted where considered duplicative.
13. Changes to the financial scheme of delegation are also proposed to clarify and simplify the presentation. In addition, these substantive changes are proposed:
 - a. Revision to the delegations for contract approval to align with the new provisions for entering into contracts noted above, and simplify delegations for contract variations (section 2.4)
 - b. New delegations to specify approvals needed for approval of pay above the minimum for any specific role, and any annual pay award for all staff (section 5). This intends to formalise the existing arrangements adopted.

Northern Ireland

14. These delegations apply to all our functions in relation to England and Northern Ireland.

Finance and Resource

15. There is little cost of developing this proposal. Implementing this proposal effectively will marginally increase efficiency through the discharge of functions at lower grades within the organisational structure.

Impact Assessments

Risk Assessment

16. There is a risk that functions are delegated to an insufficiently expert and experienced role in the organisation, compromising the quality and integrity of decisions. The delegations proposed are modest, and in identified areas where maturity, experience or controls justify the proposal.
17. There is a risk that functions are insufficiently delegated to optimise our efficiency, leading to excess costs, operational friction and opportunity cost. The proposal aims to strike the appropriate balance between these two risks.
18. There is a risk that delegations are not exercised, limiting the efficiency that is intended. This is to be mitigated through communications and management action set out below.

Equality Analysis

19. No material equalities impacts have been identified.

Environmental Analysis

20. This proposal makes no direct contribution to our environmental obligations.

Implementation Timescale

21. If agreed, these amended delegations will be implemented immediately.

Communications

22. Changes to the delegation policy will be communicated to staff through our usual cascade channels. Executive Directors will be asked to ensure awareness within their teams, and to actively encourage the adoption of delegated authorities by those who have them.

23. We have previously considered the merits of publication of our delegation policy. Other public authorities do – for example Natural England. *This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.* Our draft transparency criteria would favour publication and we propose to publish for information on our website alongside our governance framework.

External Stakeholders

24. None

Paper to be published	Yes
Publication date (if relevant)	With the 12 June 2023 Board meeting's minutes
If it is proposed not to publish the paper or to not publish in full please outline the reasons why with reference to the exemptions available under the Freedom of Information Act (FOIA) or Environmental Information Regulations (EIR). Please include references to specific paragraphs in your paper	

ANNEXES LIST

Annex A – *This section has been redacted as it contains information for future publication.*