

Board Paper

Date

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Title

Delegation Policy

Report Author

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Paper for decision

Open paper

Issue

1. This paper proposes a series of amendments to our delegation policy to provide clarity in some areas, and to update in others in light of our operational experience.

Recommendation

2. The Board is recommended to:
 - a. Note the intention to review our general approach to delegation in the next six months
 - b. 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 was last reviewed by the Board in July 2023.
4. Our policy sets out a general policy for delegation, and a scheme of financial and non-financial delegation (FSoD and NFSoD) for specific decisions.

Analysis

5. Annex A sets out a proposed amended delegation policy. Annex B shows a marked-up version of the amended delegation policy, highlighting key changes and associated rationale.

Policy

6. The policy statement has been redrafted to clarify and simplify the language, so as to be more user friendly. These are not presented as 'red-line' in Annex B, but comments are included to highlight changes that are beyond drafting.
7. These additions include to make clear that:
- a. secondees and other non-employed members of staff cannot exercise delegated functions (to align with legal advice received in year in this regard, as to the meaning of the Act)
 - b. decision makers should consult appropriately with others in order to discharge their responsibilities conscientiously (as is already expected)

NFSOD

8. A number of changes to the non-financial scheme of delegation are proposed. The key changes are presented in 'red-line'. Minor changes to language, and numbering are not highlighted for ease. The changes proposed include to:
- a. Incorporate decisions reserved to the Board alongside the related delegated decisions. These were previously stated separately. This intends for it to be clearer to staff how related decisions must be exercised.
 - b. Newly specify who is authorised to make decisions in relation to:
 - i. Conflicts of interest of the Chair (1.14)
 - ii. Casework interventions (6.4, 6.5)
 - iii. Deciding not to intervene in judicial review (7.24)
 - iv. Appointing project and programme leads (13.1, 13.2)
 - v. Initiating a scoping study without the governance that is required to initiate a project (13.7)
 - c. Amended delegations are proposed:
 - i. So that decisions to close an investigation are taken by the party who authorised the investigation, and not a lower authority (7.15, 7.16).
 - ii. To incorporate the roles of project and programme leads in how projects are initiated and controlled (13.4, 13.6, 4.8)

Future review

9. The existing approved delegation policy requires decision-makers to consult with specified others before taking decisions in a range of areas. We considered changes to make clearer the consultation that would usually be expected in other cases. The multi-disciplinary nature of much of our work makes the engagement of different disciplines in a decision inevitable. This elicited a range of views.
10. On the one hand, it can be helpful to staff to clearly articulate expectations as to how decisions should be made, including specifically who should be consulted for each type of decision. On the other hand, such expectations create complexity – it is hard for the requirements to be exhaustive and cover every context; it can create an unhelpful oversimplification of the true engagement required in making decisions; risks can arise where consultation is stated as expected, and may need to be proven if decisions are questioned at a later date.
11. We identified a concern that our delegation policy risks being overly detailed and cumbersome and in doing so acting against efficient decision-making. A more generalised delegation approach, with consistent good decision-making relying more on other aspects of culture, leadership, supervision and related controls, along with clear accountability for those decisions, could be more effective. This would however be less prescriptive which could in theory create a risk that those who should be consulted might not be.
12. The Executive wishes to get this balance right, in the context of other work progressing to further develop behavioural guidance and expectations for those who lead work in the OEP including how they work across the organisation to ensure the right expertise is engaged at the right stages as work progresses and decisions are taken. In this light, it has decided to undertake a further review of the general approach to delegation.
13. In the meantime, it is proposed to include a general consultation expectation in the delegation policy (section 3.2).
14. The other amendments in the annexes to this paper are proposed to close gaps and address some inconsistencies in the existing delegation framework. While a wider review is proposed, the Executive is assured that decisions are being made conscientiously, and with appropriate internal consultation – the opportunity is one of efficiency. The recommendations in this paper are made in this context.

FSoD

15. Only minor textual changes are proposed.

Northern Ireland

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

Finance and Resource

17. Implementing this proposal effectively will marginally increase efficiency through improved clarity in decision making.

Impact Assessments

Risk Assessment

18. 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.
19. There is also 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.
20. 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.
21. This section has been redacted as its publication would be prejudicial to the effective conduct of public affairs.

Equality Analysis

22. No material equalities impacts identified.

Environmental Analysis

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

Implementation Timescale

24. It is proposed to implement with immediate effect.

Communications

25. 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.
26. We have published our delegation policy on our website, and will publish any amended version the Board agrees.

External Stakeholders

27. None.

ANNEXES LIST

This section has been redacted as it contains information available elsewhere.

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