

CARDIFF COUNCIL

Agenda Item

CYNGOR CAERDYDD

PUBLIC PROTECTION COMMITTEE: 16th September 2014

REPORT OF THE CORPORATE DIRECTOR – ENVIRONMENT

REGULATORY COMMERCIAL SERVICES DELEGATIONS

1. Background

In December 2007, the former Executive and the Public Protection Committee considered reports on arrangements with other local authorities for the discharge of Consumer Protection functions, allowing Cardiff Council to carry out investigation and prosecution functions on behalf of other local authorities, and vice versa, where deemed appropriate. The delegations that were made at that time require updating to reflect the Council's current organisational arrangements.

The reason for the report is to allow the committee to consider the arrangements necessary for the effective discharge of functions within the committees remit and to approve the necessary delegations.

2. Issues

Consumer Protection investigations and prosecutions

As the scale of consumer frauds increases, officers from have been involved in investigations that reveal breaches of consumer protection law, not only in Cardiff, but also in other parts of Great Britain. These cross border investigations require inter authority arrangements to challenge the malpractices in the Courts.

The power to prosecute offences in Cardiff lies with the City of Cardiff Council. Authority to prosecute offences for infringements of consumer protection legislation in Cardiff has been delegated to the Assistant Director for Environment, the Operational Manager – Regulatory Commercial Services, and the Head of Regulatory & Supporting Services, in consultation with the City and County Solicitor.

However, when investigations reveal offences committed outside the geographical boundaries of Cardiff, best practice suggests that agreements should be in place with the local authority where the offences took place, in order to undertake the prosecution role on their behalf. Conversely, investigations may reveal that certain offences, which may have been committed within Cardiff, may be more appropriately prosecuted by another local authority together with offences committed within their area.

This has a number of advantages in that it allows a Court to understand the true scope of a rogue trader's activities. Again, best practice indicates that formal agreements should be entered into with any other local authorities concerned to ensure that the prosecuting authority is legally empowered to prosecute on behalf of the other authority.

This report requests delegations to the Assistant Director of Environment and or the Operational Manager Regulatory Commercial Services to enter into agreements with other local authorities in relation to Consumer Protection investigations and prosecutions functions within the committees remit; and to allow Cardiff Council to carry out investigation and prosecution functions on behalf of another local authority and vice versa, as appropriate.

As certain consumer protection functions fall within the responsibilities of the Cabinet, a separate report is being submitted to the Cabinet in respect of those functions.

3. Financial Implications

This report recommends that the Council continues to enter into agreements with other Welsh local authorities to enable the efficient discharge of the consumer protection functions. Under such agreements it is proposed that the prosecuting authority will continue to provide appropriate indemnities to the other Council(s) involved against any fees, expenses or liabilities incurred.

It is not anticipated that the recommendations will result in any additional costs being borne by the Council.

4. Legal Implications

Under the Local Government Act 1972, section 101, a local authority is empowered to make arrangements for the discharge of any of its functions by any other local authority, and where such arrangements are in force, then subject to the agreed terms of the arrangement between the local authorities, the authority that has agreed to discharge the functions is empowered to delegate the discharge of those functions to a committee, sub-committee or officer.

The Council's Constitution Article 10.3, deals with delegation to and from other local authorities and confirms that such arrangements must be approved by full Council.

The recommendations of this report are therefore legally permissible, subject to the approval of full Council.

5. Recommendations

Committee is recommended:-

- i) To delegate authority to the Assistant Director of Environment and or the Operational Manager- Regulatory Commercial Services, in consultation with the City and County Solicitor, to enter into legal agreements with other local authorities, as and when it is appropriate and in the interests of the proper and efficient discharge of the Council's consumer protection functions, and where those functions are non-executive functions within the remit of the Public Protection Committee, to:
 1. delegate the discharge of any such consumer protection functions to another local authority, and or
 2. arrange for the City of Cardiff Council to discharge any consumer protection functions of the other authority,

subject to the approval of full Council.

- ii) To delegate authority to the Assistant Director of Environment and or the Operational Manager Regulatory Commercial Services, to take any necessary action, including the institution of legal proceedings, in respect of consumer protection functions (where those functions are non-executive functions) being discharged by the City of Cardiff Council pursuant to agreements concluded under the powers delegated under recommendation (i) above, subject to consultation with the City and County Solicitor.

**JANE FORSHAW
CORPORATE DIRECTOR – ENVIRONMENT
SEPTEMBER 2014**

This report has been prepared in accordance with procedures approved by the Corporate Management Team

The following background papers have been taken into account

Public Protection Committee report, 'Consumer Protection Delegations', 4 December 2007
Executive report 'Consumer Protection Delegations', 6 December 2007