

## **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

### **Section 4 – FUNCTIONS DELEGATED TO OFFICERS**

#### **Section 4A - Introduction**

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#### **1 Overall Basis**

1.1 This scheme delegates certain functions of the Council and the Cabinet to officers and should be interpreted widely rather than narrowly. It is divided into the following sub-sections:

A – Introduction

B – General Delegations to Chief Executive, Corporate Directors and Directors

C – General Delegations to Assistant Directors and Chief Officers (and Heads of Service)

D – General Delegations to Operational Managers

E – Specific Delegations to Statutory Officers

F – Specific Delegations to other Officers

These sub-sections inter-relate and should not be read in isolation.

1.2 In this scheme “officer” means the holder of any post named in this scheme as having delegated powers and duties, and for the avoidance of doubt, the term “officer” shall be deemed to include any individual who is not an employee of the Council (for example, a locum, agency worker, specialist consultant, joint manager appointed with another organisation or similar) who is engaged by the Council to take responsibility for discharging the delegated powers and duties concerned, unless legislation provides that the relevant power or duty can only be carried out by an employee of the authority.

1.3 This scheme delegates power and duties within broad functional descriptions and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation.

1.4 This scheme operates under Sections 101, 151 and 270 of the Local Government Act 1972 and all other powers enabling the Council.

1.5 This scheme includes the obligation on officers to keep Members properly informed of activity arising within the scope of these delegations. Officers should also inform Members of any significant delays to agreed schemes or projects.

(a) When taking, or considering taking, delegated decisions all officers must have regard to the following questions:

(i) Does the decision involve significant expenditure to the service budget, or wider Council budget?

(ii) Does the decision affect the reputation of the service and/or Council?

- (iii) Is the decision significant with regard to one or more wards?
  - (iv) Does the decision carry a significant risk to the service or wider Council?
  - (v) Does the decision impact reputationally or financially on service users, partner organisations or committees outside the Council?
- (b) Officers must consider the above and, where the answer to any of the above questions is yes, prepare a delegated officer decision using the pro forma, which must be presented to the relevant Cabinet Member to consult with them on the decision (this can be done via email).
- (c) If the matter impacts specifically on one or more wards (i.e. it is a local issue rather than council wide) and it is considered to be significant then then the officer should consult ward member(s) (and consider the need to consult with any relevant Community Council).
- (d) For highly significant or sensitive matters, officers must consider, in consultation with the relevant Cabinet member, whether in fact a Cabinet Report should be prepared instead and the matter entered on the Cabinet Forward Plan.
- (e) Day to day routine management decisions do not need to be subject to formally recorded decision procedures.
- 1.6 In addition to functions delegated to officers under this scheme, the Council, any of its Committees and or the Cabinet may also decide to delegate certain functions and decisions to officers. Any such delegations to officers shall:
- (i) be notified to the Monitoring Officer who maintains a record of all delegations (in accordance with the requirements of section 100G of the Local Government Act 1972); and
  - (ii) for the avoidance of doubt, any such officer delegations shall not be further delegated, unless expressly provided for in the resolution.
- 1.7 For the avoidance of doubt, the Interpretation provisions set out in Part 2, Article 15.2 of the Constitution shall apply to this Scheme where the context permits and unless otherwise expressly stated. This is including but without limitation to Article 15.2(i) in respect of references to post titles or designations in any officer delegation, whether in or under this Scheme or any other officer delegation referred to in paragraph 1.6 above.

## **2 Overall Limitations**

2.1 This scheme does not delegate to officers:

- (f) Any matter reserved to full Council;
- (g) Any matter which by law may not be delegated to an officer;
- (h) Any matter expressly withdrawn from delegation by this scheme or at any time by the Cabinet.

2.2 In each case the delegated authority to officers exclude:-

- (a) the taking of decisions which make, amend or are not in accordance with the budget and policy framework
- (b) the setting or changing of policy and associated service standards;
- (c) the review of performance
- (d) the setting of overall service area budgets
- (e) responding to formal central government consultation in respect of strategic policy

which remain the responsibility of Council/the Cabinet /Committees as appropriate.

2.3 Any exercise of delegated powers shall be subject to:-

- (a) Any statutory restrictions
- (b) The Council's Constitution, including Financial and Land Procedure Rules and Contracts Procedure Rules
- (c) The Council's budget and policy framework
- (d) Any other policies
- (e) The Code of Conduct for Members
- (f) The Code of Conduct for Employees

2.4 In exercising delegated powers officers shall:-

- (a) not go beyond the provision in the revenue or capital budgets for their service or agree individual items of expenditure or virement beyond that permitted by the Contracts and Financial Procedure Rules;
- (b) have regard to any report by the Chief Executive or the Monitoring Officer under Sections 4 and 5 of the Local government and Housing Act 1989 or of the Section 151 Officer under Section 114 of the Local Government Finance Act 1988;
- (c) maintain a full record of the exercise of those powers, including all relevant details, in accordance with any corporate guidance given by the Monitoring Officer (for decisions taken within the Scheme, the form of evidence required is shown in sub-sections B, C and D); and
- (d) have regard to any report from the Council's internal and external auditors in relation to a fundamental weakness in management and financial controls.

### **3 Further Provisions**

3.1 In all cases delegated authority includes management of the human and material resources made available for their functions and departments within the limitations of this scheme and subject to specific delegations in this scheme or elsewhere to another officer.

- 3.2 In all cases delegated authority includes the power to issue and serve statutory and other notices, to institute formal cautions, to recommend the institution of legal proceedings before courts or tribunals, to take default action under all legislation relevant to their functional area and to authorise Officers to appear on behalf of the Council in tribunals, review boards and inquiries, also to sign all necessary documents and authorise entry to land in pursuance of statutory powers, provided always that this is in accordance with the functional responsibilities of the officer concerned, and subject to the provisions of Article 13 of this Constitution.
- 3.3 In all cases, delegated authority includes the power to determine applications and authorise payments and implement national agreements.
- 3.4 It shall always be open to an officer to consult with the Cabinet, or a non-executive committee on the exercise of delegated powers, or not to exercise delegated powers but to refer the matter to the Cabinet or a committee (as appropriate).
- 3.5 In exercising delegated powers, officers shall consult with such other relevant officers as may be appropriate and shall have regard to any advice given.
- 3.6 Unless expressly provided to the contrary, this scheme includes the power for officers further to delegate in writing all or any of the delegated functions to other officers (described by name or post) either fully or under the general supervision and control of the delegating officer. Sub-delegations shall be recorded in a register kept by the Monitoring Officer under Section 100G of the Local Government Act 1972. Sub-delegations may be made across departmental boundaries and to other Councils and their officers as appropriate.

#### **4 Record of Exercise of any Function**

- 4.1 In the case of decisions taken by (i) Full Council; Committee or Cabinet (ii) the Chief Executive; (iii) a Corporate Director or Director, exercising a Corporate Director or Director delegation, except for any decision made under Sub-Section 4E of the Scheme:-
  - (a) the written record of the decision, in the prescribed form, will be sent to, and kept by, the Committee and Member Services Manager;
  - (b) the written record of the decision will be open to public inspection, except where it contains confidential or exempt information; and
  - (c) a copy will be sent to the Corporate Director, Resources if the decision requires a call on budget which should be notified to him/her.
- 4.2 All decisions made by the Cabinet will be published in the Cabinet Decision Register. Similarly any Executive Decisions made by officers which fall within paragraph 4.1 (ii) and (iii) above, whether such decisions are made under this

Scheme or by virtue of a delegation from the Cabinet, will be published in the Officer Executive Decision Register.

4.3 In the case of decisions by an employee other than those decisions set out in sub-paragraphs 4.1 and 4.2 above:-

- (a) the written record of the decision will be kept in accordance with the requirements of the relevant Director or Chief Officer;
- (b) the written record of decision will be open to inspection by a Councillor in accordance with the Access to Information Procedure Rules; and
- (i) a copy will be sent to the Corporate Director, Resources if the decision requires a call on budget which should be notified to him/her.

For the avoidance of doubt, the record of the exercise of a delegated power may relate to the exercise of one or more power where the powers have been exercised contemporaneously.