

## Appendix 2 – Scheme of Delegation to Officers

### 1. Introduction

- 1.1. This scheme of delegation authorises the Chief Executive, the Director of Corporate Services and the Director of Environment, Housing and Regeneration, to exercise the functions of the council as set out in this document. It repeals and replaces all previous schemes of delegation.
- 1.2. This scheme is without prejudice to the exercise of the council’s functions by the Full Council and the council’s committees, sub-committees and panels.
- 1.3. The statutory officers’ responsibilities are set out in the [Framework](#) (Annex 3.1). “Head of Service” means the Heads of Service reporting to the Chief Executive and / or a Director. All powers with the scheme of delegation are exercised within approved budgets.

### 2. General delegation to officers

- 2.1. The Chief Executive and Directors are empowered to make decisions on behalf of the council in accordance with the following general principles:
  - i. If a function, power or responsibility has not been specifically reserved to the Full Council or a committee, or the council acquires a new function where a decision is required before delegations have been agreed, the Chief Executive or Directors within whose remit the matter falls, is authorised to act.
  - ii. The Full Council and other council committees will make decisions on matters of significant policy. The Chief Executive, and the Directors have express authority to take all necessary actions to implement Full Council and committee decisions that commit resources, within agreed budgets in the case of financial resources, as necessary and appropriate.
  - iii. The Chief Executive and the Directors are empowered to take all operational decisions, within agreed policies, in relation to the services for which they are responsible.
  - iv. The Chief Executive and the Directors are empowered to take all necessary decisions in cases of emergency or urgency.
  - v. In relation to all delegated authority conferred on the Chief Executive and Directors by this scheme, the Chief Executive may allocate or re-allocate responsibility for exercising particular powers to any officer of the council in the interests of effective corporate management as they think fit.

- vi. Where there is doubt over the responsibility for the exercise of a delegated power, the Chief Executive, or their nominee, is authorised to act.
  - vii. Anything delegated to the Head of Legal Services is also delegated to the Chief Executive.
  - viii. These delegations should be interpreted widely to aid the smooth running of the organisation, the effective deployment of resources and the efficient delivery of services.
- 2.2. For the purposes of this scheme, emergency and urgency have the ordinary dictionary meaning of the words and may imply considerations of health and safety, legal and financial risk, or that the interests of the council may be compromised. In the absence of the Chief Executive, a Director will exercise emergency or urgency powers in the same way.
- 2.3. In deciding whether or not to exercise delegated powers, the Chief Executive and the Directors should consider whether to consult the appropriate Group Leader / Chair, or Committee Chair, and have regard to their views. Officers shall always be entitled to refer matters for decision to the appropriate member body where they consider it expedient to do so.
- 2.4. The Chief Executive and the Directors may authorise officers in their service areas to exercise, on their behalf, powers delegated under this scheme, and there will be a presumption that all operational and budgetary responsibility for services shall be exercised by the Head of Service for the appropriate services, unless the Chief Executive directs otherwise.
- 2.5. All delegations conferred under this scheme must be formally recorded in writing by the Chief Executive, and the Directors as the case may be (including for the avoidance of doubt any delegation under paragraph 2.1 (v) and 2.4 above). Any decision taken under such authority shall remain their responsibility, and must be taken in their name. The Head of Place Development and the Development Management Manager shall exercise, in their own names, any powers delegated to them in connection with the determination of planning applications or any other planning function and such decisions shall remain their responsibility.
- 2.6. The Chief Executive will make such arrangements as they consider appropriate to maintain a central record of all delegations under this scheme. The record will be available for public inspection. Subject to any specific restriction in writing:
- i. A reference to any other officer will include a person who is deputising (whether in full or part time or on an absence basis) for that post. Such deputising arrangements should be made in

accordance with any scheme of delegation and should be authorised in writing.

- ii. Any function or power which may be discharged to any officer under a scheme of delegation may also be discharged by a person holding a post which is a successor post to that of the original post following any reorganisation, restructure, or similar process.
- iii. In exercising these delegated powers the officers concerned shall have broad discretion, subject to complying with all relevant legislation, the council's Constitution, including its contract and financial procedures and regulations, and overall council policy, to use the most efficient and effective means available, including the deployment of staffing and other resources within their control and the procurement of other resources necessary, whether within or outside the council.
- iv. Officers shall act, so as to achieve for their service, the policies and objectives including the requirements of any service delivery plans for their service area; always having regard to the overall corporate plans and interests of the council.
- v. Where an officer referred to in paragraph 2.4 above is absent from the workplace for a period of time, which requires others to exercise delegated authority in that officer's absence, another officer should be nominated by the Chief Executive. This nomination should be formally recorded in writing.
- vi. Notwithstanding anything contained in this scheme of delegation, officers shall not have the power to make decisions upon any matter that has been reserved to Full Council or a committee except in cases of emergency.

2.6.1. Without prejudice to the generality of the foregoing, the Chief Executive and the Directors shall have the power:

- i. To take all lawful action consistent with overall council policy to deliver agreed strategies, plans and policy within their area of responsibility and within approved budgets. This shall include, but not exhaustively:
  - a. Invitation and acceptance of tenders in accordance with Contract Standing Orders.
  - b. Submission of bids for funding.
  - c. Write-off of irrecoverable debts.
  - d. Virement (within the budget framework).

- e. Disposal and acquisition of assets.
  - f. Service and placing of any necessary statutory or other notices (other than those expressly reserved to the Full Council or a committee).
  - g. In consultation and with the consent of the Head of Legal Services authorising the institution, defence or appearance in criminal or civil proceedings in relation to any legislation that they are responsible for monitoring, enforcing or otherwise implementing on behalf of the council.
- ii. To put in place management arrangements, which define the area of responsibility of all officers under their area of responsibility.
  - iii. In the case of any overspend to notify the Chief Finance Officer in the role of Section 151 Officer in accordance with the financial procedure rules and regulations.
  - iv. To determine staffing arrangements within approved budgets, subject to agreement on grading with the Head of People and Organisational Development and conformance with council policies.
  - v. To take all action to recruit, appoint, develop, manage and reward employees within approved council policies and procedures (including operation of policies for voluntary severance, early retirement, redundancy and redeployment), and relevant conditions of service: subject to paragraph 2.6.2 below.

2.6.2. For the avoidance of doubt the appointment of the Chief Executive and Directors and other statutory officers shall be made by Full Council (see the [Framework](#), Annex 3.2).

### **3. Taking decisions**

- 3.1. In taking any decision, the officer concerned must be satisfied that the following issues have been considered and actions taken where appropriate. All of these issues should be considered at the earliest possible stage:
- i. The views of the relevant committee Chair following the application of the consultation criteria set out in paragraph (iii) below.
  - ii. The implication of any council policy, initiative, strategy or procedure. Officers need to be aware of any potential impact of a delegated decision in other areas. In such cases, consultation with officers, relevant committee Chairs and local councillors, where the issue relates to a specific area, should take place.
  - iii. Consultation and the views emanating from that process.

- iv. The range of available options.
- v. The staffing, financial and legal implications.
- vi. The assessment of any associated risks in accordance with the council's Risk Management Strategy.
- vii. The involvement of appropriate statutory officers.
- viii. The relevance of any regional or national guidance from other relevant bodies.
- ix. The council's Constitution, its contract and financial procedures and regulations, all relevant guidance, legislation and codes of practice.
- x. The need to secure Best Value.

3.2. In order to assist with the above, arrangements should be made by relevant officers to deal with times of absence, such as holidays. This could, for example, be through a named alternative.

#### **4. Scrutiny**

4.1. For the purposes of Audit and Scrutiny Committee:

- i. A report should be presented annually to the Audit & Scrutiny Committee setting out significant delegated decisions taken by officers under delegated powers in the previous year.
- ii. Any councillor may request that (with the exception of decisions made by the Planning Committee and licensing hearings) decisions taken by officers under delegated powers are scrutinised by the Audit and Scrutiny Committee.
- iii. Any such scrutiny will not make any action taken as a result of the decision invalid. However, the scrutiny body will be able to recommend improvements to the process or a different course of action in future.

4.2. For further information on the council's overview and scrutiny procedures see the [Framework](#) (Annex 4.6).

#### **5. Legal and procedural**

5.1. The Head of Legal Services is authorised:

- i. To take any action to implement any decision taken by or on behalf of the council, including the signature and service of statutory and other notices and any document.
- ii. To institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions

of the council, or in any case where the Head of Legal Services considers that such action is necessary to protect the council's interests.

- iii. To instruct counsel, solicitors and other experts for legal proceedings, public inquiries, and other matters involving the council.
- iv. To enter objections to any proposal affecting the Borough, the council, or the inhabitants of the Borough.

5.2. For the avoidance of doubt anything which is not covered by this scheme, including the appointment of a Proper Officer for the purpose of any statutory function, will be determined by the Chief Executive.

## **6. General indemnity**

6.1. The council has given a general indemnity to any officer acting in the purported discharge of any authority delegated to them for any action, costs, claim or liability incurred by them (see the [Framework](#), Annex 2.5).

## **7. Proper Officer functions**

7.1. A list of Proper Officer functions will be maintained by the Head of Legal Services.

## **8. Maintenance, review and change to schemes of delegations**

8.1. The Chief Executive and the Directors will establish and maintain a scheme of delegation for their directorates or budget areas, which specifies the function; names the post which may carry out the delegated decision and the limits, if any, on the delegation. The limits on the delegation will include the obligation to consult, record and/or refer back to the Chief Executive or a Director in certain circumstances.

8.2. The Chief Executive and the Head of Legal Services are authorised to approve any changes to any scheme of delegation.

## **9. Planning Scheme of Delegation**

### **9.1. Introduction**

9.1.1. The terms of reference of the Planning Committee include responsibility to determine the level of delegation to officers. It is important that there is clarity as to which decisions officers can determine and which the Planning Committee must determine.

### **9.2. Scheme of Delegation**

9.2.1. The Head of Place Development, Development Management Manager and Planning Policy Manager may determine all matters arising from all legislation relating to the use and development of land, except for those matters set out

in paragraph 9.2.2, which shall be determined by the Planning Committee. In the event any of these officers think it necessary or appropriate, they may at their discretion, refer any matter for consideration and / or determination by the Planning Committee, and shall inform the Chair of Planning Committee accordingly.

9.2.2. The matters which shall be determined by the Planning Committee are included in its terms of reference (see Appendix 3).

9.2.3. A Planning Committee member or any councillor may call in a matter for determination by the Planning Committee in accordance with the procedure outlined in the [Framework](#) (Annex 4.8, Section 8).

9.2.4. The request to “call-in” an application must be on relevant planning grounds and merit intervention to have the application placed before the Planning Committee. Where the “call in” is not made on material planning grounds the “call-in” will be invalid. The decision as to whether the grounds are justifiable will be at the discretion of the Head of Place Development in consultation with the Chair of Planning Committee and the councillors concerned.

### **9.3. Section 106 agreements**

9.3.1. The Head of Place Development is authorised to:

- i. Agree the terms of, and variations to, Section 106 agreements under the Town and Country Planning Act 1990 in connection with the grant of planning permission granted under appeal.
- ii. Refuse to enter into a Section 106 agreement if the same has not been completed within 6 months of the Planning Committee having granted planning permission, subject to a Section 106 agreement, without the need to return the matter to the Planning Committee.