

## 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, along with all Heads of Service 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) where a chart of the senior management structure is available. “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.
- 1.4. “Service area” means each and any specific area or department responsible for delivering services and functions to residents, and those necessary for the functioning of the council.

### 2. General delegation to officers

- 2.1. The Chief Executive, Directors, and Heads of Service 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, Directors, or Heads of Service within whose service area the matter falls, is authorised to act.
  - ii. The Chief Executive, Directors, and Heads of Service 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, Directors, and Heads of Service are empowered to take all operational decisions, within agreed policies, in relation to the services for which they are responsible.
  - iv. The Chief Executive, Directors, and Heads of Service are empowered to take all necessary decisions in cases of emergency or urgency.

- v. The Chief Executive, Directors, and Heads of Service to whom a power has been delegated may nominate or authorise another officer to exercise that power provided that officer is in the service area of the authorising Chief Executive, Director, or Head of Service.<sup>1</sup>The Chief Executive, Directors, and Head of Service are empowered to update the Live Register of Delegations.
  - vi. Where there is doubt over the responsibility for the exercise of a delegated power, the Chief Executive, and Directors, are 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. The Chief Executive and the Directors, to whom a power has been delegated, may nominate officers in their service areas to exercise that power. 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.
- 2.4. All delegations conferred under this scheme must be formally recorded in writing by the Chief Executive the Directors, and the Heads of Service as the case may be (including for the avoidance of doubt any delegation under paragraph 2.1 (v) and 2.3 above). A Live Register of Delegations, which is a central record of all delegations under this scheme, must be maintained. The Live Register of Delegations must be updated to reflect any changes within a reasonable time. 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

<sup>1</sup> This paragraph is based on the wording in paras. [45]-[46] of *Pemberton International Limited v London Borough of Lambeth v Mr Shahrokh Parvin* [2014] EWHC 1998 (Admin), which was approved in para. [53] of the judgment.

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. Where an Officer is empowered by this Scheme of Delegation, the Financial Regulations, and the Contract Standing Orders to make procurement decisions within their budget, they shall have all the necessary authority and powers to make such procurement decisions without the need to obtain approval from Full Council or Committee
- v. Where an Officer requires Council or Committee approval to make procurement decisions which are not within their budget, they shall have all the necessary authority and powers to make such procurement decisions upon receipt of approval from Full Council or Committee.
- vi. 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.
- vii. 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.

2.5 Where a power has been delegated to persons nominated by the Chief Executive the Directors, and Heads of Service, any decision taken under such authority shall remain the responsibility of the Chief Executive the Directors, and Heads of Service as the case may be, and must be taken in their name. The Head of Planning Policy and Economic Development and Head of Development Management and Planning Enforcement 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 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 2.8 below.

2.7 For the avoidance of doubt, the Contract Standing Orders and the Financial Regulations must be operated in accordance with this Scheme of Delegation.

2.8 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, including urgent non-delegated decisions**

3.1. The Chief Executive and Directors are authorised to take decisions on grounds of urgency regarding matters which would otherwise be reserved for determination by a Committee or Council. A matter can be deemed

urgent if, in the reasonable opinion of the officer concerned, a delay would seriously prejudice the interest of the Council or of the public and it is not practicable to convene a quorate meeting of the relevant decision-making body in sufficient time to take the decision. The officer concerned shall also

- i. Advise and seek the views of the Chair and/or Vice Chair of the appropriate Committee at the earliest opportunity.
- ii. Report the matter to the next scheduled meeting of the appropriate Committee; and
- iii. Ensure all members are advised at the earliest opportunity (via MemberNews currently).

3.2. 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.

3.3. 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.
- iv. To enter objections to any proposal affecting the Borough, the council, or the inhabitants of the Borough.
- v. To update the central record of all delegations in the Live Register of Delegations.
- vi. To exercise any powers identified as belonging to the Head of Legal Services within the Operating Framework, Standing Orders, Financial Regulations, and Contract Standing Orders.

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. Financial and procedural**

6.1. The Chief Finance Officer and Head of Finance are both authorised to take any action that:

- 6.1.1. Is required for them to comply with their duties as set out in the

Council's [Financial Regulations](#) (see Annex 5.1),

6.1.2. is necessary to give effect to decisions of the council, or

6.1.3. in any case where the Chief Finance Officer considers that such action is necessary to protect the council's interests.

## **7. General indemnity**

7.1. 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).

## **8. Proper Officer functions**

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

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

9.1. The Chief Executive and the Head of Legal Services are authorised to approve any minor or incidental changes to any scheme of delegation.