

## **SECTION 4**

### **DELEGATION OF FUNCTIONS TO OFFICERS**

The following paragraphs and tables explain the Council's Scheme of Delegations to Officers of the Council.

#### **INTRODUCTION**

Under the provisions of this Scheme, the Council makes arrangements for the discharge of its functions by officers of the Council. Section A defines these Officers and sets out what they may do.

Section B sets out the range of activities that may be undertaken by such Officers.

Section C sets out some activities which may only be undertaken by certain Officers.

Section D sets out the general provisions of the Scheme, indicating the limits on the powers conferred, conditions prior to their exercise and other necessary information.

Section E sets out the consideration that could justify the issue in question being referred to a Cabinet Member or the Cabinet for resolution.

#### **SECTION A**

The Chief Executive, Corporate Directors, Directors and Heads of Service have delegated power to take any decision falling within their area of responsibility other than

- a. those reserved to certain officers (see Section 4C) where delegated power subsists only for those officers.
- b. The general conditions set out in Section 4D and
- c. An issue which, under Section 4E, should be referred to a Cabinet Member or Cabinet Members for resolution.

#### **SECTION B**

##### **GENERAL PROVISIONS**

Applicable to all officers specified in Section A.

The Council has made arrangements for the Officers specified in Section A to discharge the responsibilities outlined therein. Subject only to the limitations set out in Section D below, Officers are authorised to take all action and decisions deemed necessary to enable those responsibilities to be effectively discharged in accordance with the following schemes or arrangements:-

- Budget Management Scheme
- Scheme of Delegation to Officers in respect of day to day human resource management and Employee Code of Conduct

- Financial Regulations
- Corporate Legal Standards
- Standing Orders relating to Contracts
- Protocol for Member/Officer relations

Without prejudice to the generality of this, Officers are authorised to:-

- determine the amount(s) of any fee or charge the Council is entitled or authorised to levy or make in respect of the discharge or any of its functions subject to such charges:
  - (a) being in line with the Council's financial plan; and
  - (b) in the opinion of the officer concerned, not involving major restructuring of charges or the introduction of any new charges.
- recruit, manage and dismiss staff necessary to enable the Council's powers and duties to be discharged in accordance with the Council's scheme for the management of the employment matters and the employee Code of Conduct referred above.
- prepare and implement necessary or required plans or strategies for appropriate approvals.
- make bids or requests for financial or other support from any government or other agencies with responsibilities which encompass those of the Council.
- determine all applications for financial assistance or grant from the Council.
- manage any allocated building premises or land.
- implement any approved service or business plans.
- liaise with the media (to the extent appropriate for officers) and issue publicity (in accordance with the requirements of the Statutory Code of Guidance and the law).
- respond to government or other consultation papers or documents and make representations on matter of interest to the Council to appropriate authorities.
- take decisions necessary or appropriate to give effect to approved capital and revenue budgets and programmes and take any other decisions necessary or authorised under the provisions of financial regulations the Budget management scheme and Standing Orders relating to contracts.
- manage Council funds, stock and material including taking any necessary action to protect them.
- make comments/objection to any statutory or other body necessary to give effect to a decision of the Council.
- enter into and manage contracts and grant exemptions from contract standing orders for contracts of all values (other than those specifically reserved to specified officers outlined in Section C).
- serve any notices and make, amend or revoke any orders falling within his/her area of responsibility.

## **NOTE**

The Scheme of Delegation to Officers in respect of day to day human resource management includes within it the right for management to issue instructions.

Without prejudice to the generality of the Scheme, the Chief Executive is authorised to issue instructions and directions to any officer of the Council save in respect of the Council's statutory officers when acting in such capacity. The Council's statutory officers for this purpose are the Corporate Directors, Director (Finance) as Chief Finance Officer, and the Director (Legal and Democratic Services) as Monitoring Officer and Electoral Registration/Returning Officer.)

## **SECTION C**

### **SPECIFIC AUTHORISATIONS**

*[See separate section 4C-1 for Proper Officer functions]*

#### **DIRECTOR (FINANCE)**

1. To carry out the functions of Chief Finance Officer conferred by law and the Council's financial regulations and the budget management scheme.

#### **PEOPLE TEAM LEADER, PLACE TEAM LEADER, RESOURCES TEAM LEADER, LEGAL SERVICES MANAGER AND DIRECTOR (LEGAL & DEMOCRATIC SERVICES)**

1. The powers conferred by resolution of the Council dated October 1999
2. To institute and conduct all civil and criminal proceedings by the Council.
3. To defend or participate in any legal proceedings brought against the Council (or its employees as a result of actions incurred during the course of their employment) or where the Council's interests are affected and to negotiate settlement.
4. To institute and conduct all proceedings and procedures to implement and enforce any decision of the Council.
5. To select and instruct Counsel and other legal service providers.
6. To enter into contracts for the provision of legal advice and services with public bodies as defined by the Local Authorities (Goods and Services) Act 1970.
7. To enter into and merge contracts and grant exemption from Contract Standing Orders for contracts of all values.

#### **CORPORATE PROPERTY OFFICER**

1. The acquisition, disposal and management of all interests in real property in accordance with a scheme devised by the Property Board and any such scheme as may be approved by the Council from time to time.

2. To enter contracts for the provision of property services with public bodies as defined by the Local Authorities (Goods and Services) Act 1970.

## **DATA PROTECTION OFFICER**

1. To carry out the functions under the GDPR and the Data Protection Act 2018 as a public authority responsible for the handling of personal data in the role of controller or otherwise and for the control and release of data under the Freedom of Information Act 2000, the Environmental Information regulations 2004 and Local Government (Access to Information) Act 1985.

## **SECTION D**

### **SCHEME OF DELEGATION TO OFFICERS – GENERAL PROVISIONS**

1. The exercise of the arrangements for the discharge of functions in this document are subject to the provisions of Standing Orders, Financial Regulations, Contract Standing Orders, the Budget Management Scheme, Corporate Legal Standards all relevant legal provisions and the provisions of the Constitution.
2. All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.
3. The exercise of a delegated power, duty or function:
  - (a) shall be subject to the Council's policies;
  - (b) shall not amount to a new policy or extension of or amendment to an existing policy; and
  - (c) shall be subject to the requirements of the documents set out in Paragraph 1.
4. Where the exercise of powers is subject to prior consultation with another officer, that officer may give his or her views in general terms in advance to apply to any particular circumstances, to remove the need for consultation for each proposal.
5. Delegations to officers are subject to:-
  - (a) the right of the Cabinet or a Cabinet Member to decide any matter in particular case, where they have the power to do so;
  - (b) the Head of Service or other Officer may in any case in lieu of exercising his/her delegated power refer to a Committee or Sub-Committee for a decision where that body has the power to act; and
  - (c) any restrictions, conditions or directions of the Leader of the Council.
6. In exercising delegated powers, the Chief Executive, Corporate Director, Director, Head of Service or other officers shall:-

- (a) comply with the requirements of the Corporate Legal Standards and shall address all legal, financial and other professional safeguards as if the matter were not delegated;
  - (b) exercise the delegation so as to promote the efficient, effective and economic running of that service, and the Council, and in furtherance of the Council's visions and values;
  - (c) keep a full record of action taken and, where and when appropriate, report back to the decision making body as to the exercise of those delegated powers, and
  - (d) carry out necessary consultations
7. In exercising delegated powers, officers shall not go beyond the provision in the revenue or capital budgets for their service except to the extent permitted by Contract Standing Orders or Financial Regulations.
  8. In exercising delegated powers, officers shall have regard to any advice of the Head of Paid Service, the Monitoring Officer or of the Chief Financial Officer.
  9. An Officer to whom a power, duty or function is delegated may nominate or authorise another Officer to exercise that power, duty or function, provided that Officer reports to or is responsible to the delegator.
  10. Subject to any express instructions to the contrary from the Council, Committee or Sub-Committee, any power to approve also includes the power to refuse and the power to impose appropriate conditions.
  11. Any post specifically referred to shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.
  12. Where a power or duty is delegated to an Officer and the exercise of the power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the Officer in question has the power to determine whether or not those circumstances exist or those conditions have been fulfilled in the name of and with the authority of the Council.
  13. References to any enactment, regulation, order or byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.
  14. Any reference to any Act of Parliament includes reference to Regulations, subordinate and European legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.
  15. The compilation of a Register of Delegated Powers is a statutory requirement. The Register is maintained by the Monitoring Officer and detailed amendments are added to it as they are made by the Leader of the Council,

the Council, Committees and Sub-Committees, the Chief Executive and other Officers. Officers should take care to inform themselves of any subsequent changes to the Register before relying on this document.

16. Following consultation with the Monitoring Officer, the Chief Executive will have the power to amend the Register to reflect re-organisations, changes in Job Titles and vacancies, where said changes result in re-distributing existing delegations and not the creation of new ones.
17. All matters of interpretation of this document will be determined by the Monitoring Officer.
18. Officers shall devolve responsibilities for service delivery and management (whether or not involving sub-delegation under this scheme) to the nearest practicable point to the service user and in a way which clearly identifies accountabilities.
19. All responsible Officers of the Council are authorised and required to consider and discharge on the Council's behalf its powers and duties under the following statutory provisions:-  
  
Crime and Disorder Act 1988 Section 17  
Equalities Act 2010  
Data Protection Act 1998  
Human Rights Act 1998  
Localism Act 2011 Sections 1 – 4  
Freedom of Information Act 2000  
Environmental Information Regulations 2005
20. Officers are required to consider before exercising delegated powers, whether in their opinion the criteria set out in Section E below are applicable.
21. The officers referred to in Section A may make arrangements within their area of responsibility for the discharge of functions to be carried out by other specified officers. Such arrangements must be recorded in writing and notified to the Monitoring Officer who will ensure such arrangements are recorded in the Register referred to at 15 above.

## **SECTION E**

### **CRITERIA FOR REFERRAL OF AN OFFICER ISSUE FOR MEMBER LEVEL CONSIDERATION OR DECISION**

If any of the following criteria apply, the matter is to be considered by elected members in the appropriate forum as follows:

Cabinet or Cabinet Member

The opinion of the Chief Executive in consultation with the Leaders of the Council, as to the interpretation and application of these criteria shall be final and conclusive.

- (i) matters of significant political impact including those which impact significantly on the issue of members' accountability to the electorate;
- (ii) matters of substance relating to key and significant projects;
- (iii) matters which raise specific issues requiring choices between options which themselves might have knock-on effects elsewhere- eg on funding;
- (iv) where significant risks have been identified in proceeding with the issue as a result of risk analysis;
- (v) where issues of timing, presentation, or relationships with other bodies (eg other Councils, outside bodies, central government) have become critical to resolve;
- (vi) where there is a significant deviation from the original intention of a project plan etc
- (vii) where a decision is required which was not anticipated in the Council's agreed plans or policies;
- (viii) a proposal for a detailed Strategy/Action Plan which is consistent with, but goes beyond the intended scope of an agreed Council Policy
- (ix) where a high level implementation decision is required.

The relevant lead Officer will be responsible for determining which is the relevant member body, having considered any advice from the Chief Executive who will be the final arbiter in such matters.