

## **PART 3H EMPLOYEE DELEGATION SCHEME**

### **1 POWERS OF DELEGATION**

- 1.1 This Employee Delegation Scheme is made under Section 101 Local Government Act 1972, Section 15 of the Local Government Act 2000, Para.2 of Part II of Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001 and all other powers enabling delegations to the Authority's Employees.

### **2 BASIS OF DELEGATION**

- 2.1 In this Scheme, any reference to the functions of the "Authority" means the functions of the Council or Executive Functions as appropriate. Any reference to any power, function, duty, requirement or instruction of the Authority means a power, function, duty requirement or instruction of the Council, the Leader, Cabinet, a Cabinet Member or an Appropriate Committee.
- 2.2 An Employee exercising a function of the Authority under delegation must do so in accordance with:
- (a) all statutory and other legal requirements, including the Human Rights Act 1998, statutory guidance and statutory codes of practice;
  - (b) the Constitution of the Authority, including the Financial and Contracts Rules;
  - (c) the Budget and Policy Framework;
  - (d) any other requirement of the Authority, including any requirement of this Scheme;
  - (e) the 'Employees Code of Conduct' contained within the Council's Constitution;
  - (f) the principles of using the most efficient and effective means available;
  - (g) ***the level of anticipated expenditure/financial liability which has been authorised***
- 2.3 The delegation of a function of the Authority to an Employee does not prevent the Council, the Leader, Cabinet, Cabinet Member or an Appropriate Committee from having the overriding power to exercise that function. This applies to an Appropriate Committee even where the delegation has been made by the Council and an Appropriate Committee may revoke or exercise in place of the Employee a delegation made by the Council under this scheme.
- 2.4 An Employee to whom a function is delegated may waive his/her power to exercise the function and instead refer the matter to the Council, the Leader, Cabinet, Cabinet Member or Appropriate Committee.
- 2.5 An Employee authorised to exercise a delegated power may consult such Councillors and officers as he/she considers appropriate and shall so consult where required to do so under the Constitution or this Scheme.

### 3 THE SCHEME

#### Specific delegations

- 3.1 This Employee Delegation Scheme contains specific delegations to the officers listed in the table below:

| Title of Employee   | Schedule Containing Detail of Delegation |
|---|--|
| Chief Executive   | A , B, D, G                              |
| Strategic Directors   | B  |
| Borough Solicitor   | C, D, E                                  |
| Head of Legal Services  | E  |
| Assistant Director (Human Resources and Organisational Development) AD HROD | C, F                                     |
| Assistant Chief Executive   | C, G                                     |
| Chief Finance Officer   | C, H                                     |
| Assistant Director (Customer Access and Service Transformation) AD CAST     | C, I                                     |
| Assistant Director (Built Environment) AD BE                                | C, J                                     |
| Assistant Director (Operations)   | C, K                                     |
| Assistant Director (Wellbeing and Culture)                                  | C, L                                     |
| Assistant Director (Community Services)                                     | C, M                                     |

#### Sub-delegation

- 3.2 An Assistant Director is not required to exercise all delegations personally and may sub-delegate duties and functions to a Service Manager or other Employee in their division provided they are satisfied that:
- the Service Manager or other Employee has suitable skills and experience to undertake those duties and functions;
  - the sub-delegation is in the interest of the efficient operation of the Authority's business;
  - there is prior consultation with the Appropriate Cabinet Member or Committee Chairman;
  - the Assistant Director records the details of the sub-delegation on a register which is kept up-to-date and held by him/her.
- 3.3 The Chief Executive and Strategic Directors may also sub-delegate direct to a Service Manager or other Employee subject to the same conditions.

#### Default delegation

- 3.4 In this Scheme, if an Employee to whom a duty or delegation is delegated is not in post or is absent or ought not, because of a conflict of interest, act in the matter:

- (a) in the case of the Chief Executive, the duty or function shall be exercisable by the Deputy Chief Executive or in his/her absence or inability to act another Strategic Director;
- (b) in the case of a Strategic Director (including the Deputy Chief Executive), the duty or function shall be exercisable by the Chief Executive;
- (c) in the case of a duty or function exercisable by the Chief Finance Officer acting in his/her capacity as Section 151 Officer, it shall be exercisable only by their nominated deputy;
- (d) in the case of a duty or function exercisable by the Borough Solicitor in his/her capacity as Solicitor to the Council it shall be exercisable by the Head of Legal Services and in his/her capacity as Monitoring Officer, it shall be exercisable only by their nominated deputy;
- (e) in the case of a duty or function exercisable by any other Assistant Director or the Chief Finance Officer or Borough Solicitor (acting otherwise than under (c) and (d) above), it shall be exercisable by a Strategic Director or the Chief Executive; and
- (f) in the case of a duty or function exercisable by a Service Manager or other Employee, it shall be exercisable by his/her Assistant Director.

**Issuing legal proceedings and instructing counsel**

3.5 Unless:

- (a) specifically authorised by the Part 2 of the Constitution; or
- (b) as set out in this Scheme of Delegations, or
- (c) where authorised by statute.

nothing in the Constitution or this Scheme of Delegations shall be construed as delegating to any Employee the power to authorise or institute any legal proceedings or process or to instruct legal agents or Counsel unless the consent of the Borough Solicitor or Head of Legal Services or someone authorised by one of them has first been given.

3.6 Subject to the terms of the Constitution and this Scheme, there is delegated to the employees listed in each of the attached Schedules the powers and functions of the Authority listed in Column 1 of the Schedule, on the basis that:

- (a) before exercising such function, the Employee shall comply with any conditions set out in Column 2 of the Schedules; and
- (b) where the name or designation of a Councillor, the Executive Board, a Strategic Director, an Employee or other person or body appears in Column 2, that person or body is first consulted before any decision is taken unless for any reason it is impracticable to do so;

- (c) where there are financial and/or legal implications in the decision the Chief Finance Officer and/or Borough Solicitor are consulted prior to the decision being made.

**Financial Powers**

- 3.7 Any decision taken under this scheme must be made within the approved revenue and capital budgets, subject to any discretion allowed by the Financial Rules. ***Officers must ensure that the expenditure or financial liability resulting from the decision taken under this scheme does not exceed the limit of their authorised level of expenditure. (Financial Procedure Rule 21.8)***

**Job Title Change**

- 3.8 Should the title of an officer be altered from that shown due to a re-organisation of departmental arrangements or other reason, the approved delegated arrangements shall be exercisable by the Chief Executive, a Strategic Director or the appropriate Assistant Director or Service Manager, as the case may be, responsible for the function in question.

**Committee Change**

- 3.9 Any reference to a Committee shall be deemed to include a reference to any other Committee to which the Council may from time to time delegate the performance of the function referred to.

**Legislation Change**

- 3.10 Any reference to a specific statute includes any statutory extension or modification or re-enactment of such statute and any regulation, orders or bylaws made thereunder.

| <b>E. TO EACH OF THE BOROUGH SOLICITOR AND THE HEAD OF LEGAL SERVICES</b>   |  |
|---|--|
| <b>Delegated by the Council and the Leader/Cabinet</b>  |  |
| <b>1<br/>Delegation</b>   | <b>2<br/>Condition</b>   |
| <b>General</b>  |  |
| 5.1 To act as Solicitor to the Council  | The Head of Legal Services will only act as Solicitor to the Council where the Borough Solicitor is not in post absent or unable to act  |
| 5.2 Taking any action reasonably necessary to give effect to a decision of the Authority and accepting or initiating any notice or process on behalf of the Authority.  |  |
| <b>Documents</b>  |  |
| 5.3 issuing, serving and receiving all notices, etc. required to be given under the terms of any agreement, Contract, lease or other document by or to<br>(a) 'The Town Clerk';<br>(b) 'The Town Clerk and Chief Executive';<br>(c) 'The Borough Secretary';<br>(d) 'The Chief Executive';<br>(e) 'The Managing Director';<br>(e) 'The Proper Officer'; or<br>(e) any other specified person<br>where there is no equivalent person employed or appointed by the Authority. |  |
| 5.4 Rectifying documents  |  |
| <b>Constitution</b>   |  |
| 5.5 Authority to take any action which it falls to the Monitoring Officer (in that capacity or otherwise) to take under the terms of the Constitution.  | This does not authorise the Head of Legal Services to undertake the statutory duties of a Monitoring Officer unless specifically appointed as the Monitoring Officer's deputy. |
| 5.6 Power to amend the Employee Delegation Scheme where there has been a change of law, job title, structure, rearrangement of responsibilities between Employees or other circumstance, provided that there is no overall increase in the level of delegation.   | Appropriate Cabinet Member, Appropriate Committee and affected staff to be informed  |
| 5.7 Power to make amendments to the Constitution to reflect changes in law or fact in accordance with Article 12 of the Constitution.   |  |

|   |   |
|---|---|
| <p><b>Legal Proceedings</b></p> <p>5.8 In addition to any authority given by Article 14 of the Constitution of the Council, authorising, instituting, defending and settling any legal proceedings or process of any sort and taking any action he/she considers appropriate to that end.</p>   | <p>Except in any case where the Borough Solicitor deems to be urgent, this does not authorise the Borough Solicitor to incur expenditure or financial loss to the Council which has not either been authorised by the Authority or is within the authorised expenditure limit of the Borough Solicitor within the Financial Procedure Rules in Part 4H of the Constitution.</p> |
| <p>5.9 Authorising and serving or publishing any notice, summons, application or other legal process of any sort on behalf of the Authority and giving undertakings on its behalf.</p>  |   |
| <p>5.10 Exercising all the powers of the Authority under Section 222 Local Government Act 1972 (power to prosecute or defend legal proceedings) including the seeking of injunctions.</p>   |   |
| <p>5.11 Authorising under:</p> <p>(a) Section 223 Local Government Act 1972 any officer of the Authority to prosecute or defend on behalf of the Authority or appear in proceedings before a magistrates court.; or</p> <p>(b) Section 60 County Courts Act 1984 persons to appear in or conduct actions on behalf of the Authority in the County Court</p> |   |
| <p>5.12 The power to appoint or instruct legal agents or Counsel or authorising other Employees to do so.</p>   |   |
| <p>5.13 The authority to administer cautions on behalf of the Council.</p>  |   |