

## DELEGATION RULES

### 1. General

- 1.1 Subject to the following Rules, where any function, power or responsibility is delegated to any officer or body, that officer or body shall, unless otherwise stated in Part 3, have full power to act in all respects in the name of the Council and may exercise in the name of the Council any discretion countenanced by statute, regulation or in common law in relation to the discharge of that function, power or responsibility and all matters ancillary or incidental thereto.
- 1.2 Unless otherwise stated or expressly limited, Corporate Managers shall have the like delegated powers, functions and responsibilities as their respective Chief Officers in their absence.
- 1.3 The Leader, and in his / her absence, the Deputy Leader, shall have all the delegated powers, functions and responsibilities of any portfolio holder in their absence. The Deputy Leader shall assume the full powers of the Leader in any circumstances in which the Leader is unable to act, and shall act as Leader if the post of Leader is vacant (Article 7.03 above refers).
- 1.4 In the scheme of delegation the following general principles apply:
  - 1.4.1 Wherever appropriate, the views of local members will be sought and their views taken into account. Where local member(s) do not support a proposed decision by an officer the matter should be referred to the portfolio holder. Where a proposed decision of a portfolio holder is not supported by any local member, the matter should be referred to a meeting of the Executive, where the local member(s) would have the right to speak. Decision-takers should share with local members at as early a stage as possible what the proposed decision is likely to be so that local members can take a view on the matter quickly. The requirement for a reference to the Executive cannot be made if the decision has been made and acted upon or after five days from notification.
  - 1.4.2 A portfolio holder should not make a decision on a matter which relates to his / her ward or to an individual, household or organisation within his / her ward. In such cases (or where for some other reason it would not be appropriate for a portfolio holder to make a decision on a matter) or in the absence of the portfolio holder, the decision should be referred to another portfolio holder previously deputised by the Executive or by the Leader, the Leader and the Executive in that order.
  - 1.4.3 In exercising delegated powers, portfolio holders and officers are expected to refer “upwards” any issues they consider sensitive or controversial.
  - 1.4.4 ~~Every portfolio holder shall have full power to take executive decisions on any matter within his or her portfolio responsibility, except as may be referred by him or her to the Executive or reserved to it by the Executive.~~ Part 3 of this Constitution sets out the responsibility of Council functions and Tables 2A and 2B those of the Executive.

## APPENDIX D

Those Tables set out in some detail which functions are presently ~~reserved~~ ~~delegated~~ to the Executive as a whole and which are delegated to portfolio holders. ~~Where no reference is specifically made in Table 2B to any function of executive discretion, it shall be within the power of the relevant portfolio holder to determine any matter or thing within the ambit of the respective portfolio but subject to t~~he following overall criteria ~~which~~ shall ~~also~~ apply to ~~these~~all functions specifically delegated to Portfolio Holders:

- Where the function involves more than one portfolio, all relevant portfolio holders shall come together for a decision, and in default of agreement, the matter shall be referred to the Executive for decision
- If the portfolio holder(s) think(s) the matter in question is of such a significance that the Executive should decide the matter, it should be referred to the Executive accordingly
- If the portfolio holder is in any doubt as to whether any matter properly falls within his, her or another portfolio holder's or other portfolio holders' functional responsibility or whether the matter is of such significance that the Executive should determine the matter, the Leader shall rule accordingly (after consulting any persons the Leader may wish to consult) and such ruling shall be conclusive).

~~1.5 Council on 18 October 2007 delegated authority to the Cabinet to approve, after opportunities for virement have been exhausted, in-year supplementary revenue and capital estimates up to Level 3 (£50,000 per item), subject to this expenditure being within approved policy.~~

## 2. Restrictions on all Delegations

- 2.1 No officer shall set fees or charges.
- 2.2 Except as may be provided in this Constitution or authorised by ~~full~~ Council, no officer, portfolio holder, member, committee, sub-committee or the Executive shall exercise any power, function or responsibility in a way which is not in accordance with the budget or policy framework of the Council or is contrary to any policy of the Council bearing upon the matter in question.
- 2.3 No officer, or body shall exercise any power, function or responsibility which had been delegated but where the power, function or responsibility has been withdrawn or has been reserved to any other person or body.

## 3. Supplementary Provisions

- 3.1 Unless limited by any provision in this Constitution, any officer with delegated powers or functions may delegate those powers or functions in whole or part to any other suitably experienced and qualified officer - but shall remain accountable and may himself or herself continue to exercise or share those powers, functions or responsibilities.
- 3.2 Any body, or member of the Executive, with delegated powers may delegate any such power or responsibility to the relevant Chief Officer – but shall remain accountable and may itself, himself or herself continue to exercise or share those powers, functions or responsibilities.

## APPENDIX D

3.3 The exercise of any delegated power, function or responsibility may be restricted by the delegating person or body. Restrictions may be financial, numerical, subject to local member(s)', Leader's and / or committee Chairman's consultation or approval, subject to time limit, or in any other way.

3.4 All persons and bodies with delegated powers shall record and report substantive decisions made under those powers in accordance with Article 13.02.

### **3.5 *Chief Executive's General Delegated Power to act in the Name of any Chief Officer or in Emergency***

3.5.1 The Chief Executive shall have power to act in the name of any other Chief Officer in his or her absence

3.5.2 The Chief Executive (or any other Chief Officer in his or her absence) may exercise any power or function, which is in law capable of delegation, in any emergency threatening life, limb or substantial damage to property within the District. The Chief Executive shall consult with the Leader of the Council (unless the Leader cannot be contacted after all reasonable efforts have been made). The exercise of such power or function shall be confined to the minimum necessary to deal with the emergency and shall be reported to the next meeting of the Executive or the Council, whichever shall be the first.

### **3.6 *Ancillary Powers of all Chief Officers***

All Chief Officers shall have full delegated power:

3.6.1 to undertake day-to-day management and control of the staff reporting to them and the premises and services for which they are responsible

3.6.2 to approve the acquisition and disposal of any interest in property by the Council where the value does not exceed Level 2 provided the terms have been approved by the District Valuer, or the Council's valuer, and the Chief Finance Officer and the acquisition or disposal is a necessary part of a policy, scheme or plan approved by the Council.

i. The Executive Director has authority to approve or refuse the disposal of housing land for public amenity use or for use as garden land or otherwise improve the access or amenity of a dwelling, subject to the approval of the local member(s) and (in the case of a proposed disposal) subject to the confirmation of the Corporate Manager for Planning and Sustainable Communities that the land is not capable of development which will significantly increase its value.

ii. The Executive Director has authority to approve making land / property available at nil cost for affordable housing schemes, using the following mechanisms:

- Accepting a higher level of shared ownership on appropriate affordable housing sites in order to cross-subsidise social rented housing;

## APPENDIX D

- Accepting that some housing on affordable sites may need to be sold at full market value in order to cross-subsidise rented housing;
- Accepting a lower percentage of built units on S106 sites; and
- Accepting a financial contribution in lieu of on-site provision of affordable housing on S106 sites

The above mechanisms to be subject to:

- The approval of the Portfolio Holders for Housing and Planning and appropriate local member(s);
- An annual limit of £1 million for land / property made available at nil cost, without reference to Cabinet; and
- Compliance with current planning policies and the available General Consent for disposal of land to Registered Social landlords under Section 25 of the Local Government Act 1988

- 3.6.3 to dispose, for the best terms available, of vehicles, stores and equipment which, following consultation with the Chief Finance Officer, they consider to be surplus to requirements
- 3.6.4 to initiate appropriate action, in consultation with the Head of Paid Service, on matters relating to recruitment, selection and career development of staff generally except Corporate Managers and to take disciplinary action (including dismissal) in accordance with the Council's disciplinary procedures
- 3.6.5 to appoint staff on a temporary basis on a similar salary grade and other terms as the established post, not exceeding a period or periods of three months, without further authorisation (but previously reporting to the Chief Finance Officer) to cover maternity or other extended leave, to accommodate increased workload or to cover seconded staff but not in any appointment, after available virement, so as to increase base budget for the service; otherwise to recommend to Management Team for authority of the Executive or of Council (as the case may require) (the Chief Executive has authority to approve all new posts within approved budgets)
- 3.6.6 to refuse applications for regrading giving reasons or to authorise the regrading of relevant staff
- 3.6.7 to authorise any desired changes in workforce establishment.

- 3.7 The following housing executive powers have been delegated to specified officers:

Management Transfers	Housing Services Manager
Assignment of tenancies	Housing Services Manager
Discretionary points award outside normal allocations policy	Housing Advice and Options Manager

## 4. Reporting Delegation of Powers

## APPENDIX D

- 4.1 ~~At the next available meeting of the Executive all executive functions which are subject to new delegation, onwards delegation or any withdrawal of or changes in limits on delegation shall be reported to the Executive and recorded, and the Leader shall report such matters to the next available meeting of Council. The Leader's scheme of delegation of executive functions, set out in Part 3 of this Constitution, shall have effect from the date new executive arrangements, required under Section 14 of the Local Government Act 2000, amended in accordance with Section 63 of the Local Government and Public Involvement in Health Act 2007 were adopted by the Council.~~

The Leader may refine the allocation of functions and responsibilities set out in Tables 2A-2B as he/she wishes. To effect changes, the Leader shall provide details of the changes he/she wishes to make in writing to the Chief Executive, such changes to have effect immediately upon subsequent written notification to all Members. Details of the changes made shall be reported to the Cabinet at its next Meeting.

Delegations by Council, and any changes in the delegation scheme previously approved by the Council, shall be ~~similarly recorded~~ formally agreed by the Council.

Changes to the Scheme of Delegation to Officers shall be authorised by the Chief Executive and published within Part 3 of the Constitution, except where they involve the withdrawal or limitation of officer delegation which shall be authorised by the Council, Leader of the Council or committee of the Council as appropriate.

## 5. Validity of Decisions Taken Under Delegated Powers

- 5.1 It shall be presumed that any recorded delegated power remains extant (within any limits set thereon if appropriate) unless the ~~Executive Leader of the Council, or the~~ Council or Chief Executive, as the case may be, determines or changes that delegation and either the proper officer certifies that fact or there is an approved minute of any such determination or change.
- 5.2 The exercise or purported exercise of any recorded delegated power shall be valid for all purposes notwithstanding that there may have been any inadvertent defect in formality in the giving of notice of any meeting to any councillor, inadvertent failure to consult any person or observe any protocol or code contained in this Constitution or any other administrative error. This shall not apply to any purported exercise of any power by a non-quorate body.

## 6. General Delegated Powers and Proper Officer Responsibilities [Article 12.08]

- (a) Authority to exercise the powers and carry out all of the functions of the Council shall be delegated to the Chief Officers, subject to the following exceptions:
- Matters reserved to the Council in accordance with Article 4.
  - Matters reserved to the Leader of the Council, Cabinet and individual portfolio holders in accordance with Part 3, Tables 2A and B.

## APPENDIX D

- Matters reserved to regulatory and other committees and sub-committees in accordance with Part 3, Tables 1 and 3.
- Matters reserved to specific officers by law or under the provisions of this Constitution.

The Chief Officers shall have authority to delegate their powers, functions and responsibilities, wholly or in part, to Corporate Managers or other senior staff reporting directly to them. These officers shall themselves have discretion to delegate powers to be exercised by suitably qualified and experienced officers within their areas of responsibility, subject to limitations on further delegation which may be imposed. In all cases:

- General and specific delegations, and any limitations upon them, shall be set out in writing.
- Delegated powers shall be exercised in accordance with the Council's agreed corporate priorities set out in the budget and policy framework agreed by the Council and with the Delegation Rules set out in Part 4 of this Constitution.
- Accountability for the actions of Corporate Managers and subordinate officers shall remain with the Chief Officers.

- (b) The Chief Officers shall have full power to do all such things and exercise all such discretions within their respective functions and areas of responsibility as set out in Article 12.01(b) above in relation to all operational matters, subject strictly to the Delegation Rules in Part 4. These powers, though described in general terms, are intended to allow Chief Officers freedom of operational management, within service areas, within policy and within budget.

~~(c) Any limit or restriction upon the general delegated powers under paragraph 3.3 of the Delegation Rules shall be reported to the Council and recorded by the proper officer [paragraph 4, *ibid*]. In this paragraph and in all the Part 4 rules relating to committee, Executive and Council administration, reference to the 'proper officer' shall mean the Chief Executive or such suitably experienced senior officer as the Chief Executive shall appoint~~

~~(d)(c)~~ Unless otherwise provided by law or in this Constitution, each Chief Officer, within his or her respective functions and areas of responsibility set out in Article 12.01(b), shall also be the respective 'proper officer' in all cases where statute or regulation requires or provides for the Council to appoint a 'proper officer' but any Chief Officer may delegate any such responsibility to a suitably experienced senior officer

~~(e)(d)~~ All proper officer appointments not already set out in this Constitution, other than general appointment under paragraph ~~(cd)~~ above, whether of, or under delegation by, any Chief Officer, shall be recorded by the Chief Executive and that record shall be kept up to date and available for inspection in the same manner as the scheme of delegations of powers.

~~(f)(e)~~ The Chief Executive is authorised to cancel, postpone or alter the date or time of a Cabinet, Council and / or any other meeting of the Council as deemed appropriate but, before doing so, shall consult all members

## APPENDIX D

~~of the committee about the need for the change and about convenient alternative dates and times. If reasonably practicable, the Chief Officer will consult all members of a committee before setting a date and time for a special meeting of that committee.~~

### **7. Limit of Approvals of Grants by the Council**

Chief Officers may approve any non-statutory grant<sup>1</sup> above Level 1 and up to and including Level 3. Chief Officers may approve any Disabled Facility Grant or Renovation Grant above Level 1, up to and including Level 2, such awards to be consistent with policy and in consultation with local members.

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1 See Part 3, Table 2B Statutory grants are those which are made under a national statutory scheme such as disabled facility grants. Non-statutory grants are those made under the Council's discretionary powers such as grants to voluntary groups, village facilities and partner organisations.