

## **Part F – Officers**

### **Section F2:- Powers of Officers**

#### **In Part F:-**

**Section F1** of the Constitution explains the role of the authority's Officers in general and the role of certain key and "statutory" or "proper" officers. It sets out the Officer management structure and explains how the authority's functions are grouped together under Services and Directorates.

**This Section (F2)** contains the Officer Scheme of Delegation which sets out how Council has delegated powers to officers and how officers are to use those powers. In summary, with the exception of matters that are specifically reserved to Members by law or in this Constitution, such as adopting strategic policy and taking certain types of regulatory decisions, all of the other functions are delegated to officers. Officers may enter into contracts and incur expenditure but must do so within financial limits and procedures set out in the Finance and Contract Procedure Rules (Section G4).

**Section F3** contains the Officer Employment Procedure Rules.

## **Part F – Officers**

### **Section F2:- Powers of Officers**

**In this Section:-**

- 1. Introduction**
- 2. Cascade of Powers**
- 3. Use of Powers**
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- 6. Authorising Expenditure and Signing and Sealing Agreements**
- 7. Legal Proceedings and Protecting the Council's Interests**

## **1. Introduction**

- 1.1 Officers are appointed to undertake particular roles. Those roles may be established by the terms of their appointment, job or role description, their position in the organisation, or from a specific instruction or the allocation of specific responsibilities by their manager. Officers' roles may vary from time to time to reflect changes in service delivery.
- 1.2 In order to ensure the smooth functioning of the authority and the efficient delivery services that it is responsible for, the Council and the Cabinet delegate to officers all of the powers that they need to do whatever their role requires of them from time to time.
- 1.3 All powers and functions not specifically reserved to Members in this Constitution or by statute stand delegated to officers in accordance with the cascade principle set out below.

## **2. Cascade of Powers**

- 2.1 Officers' powers have been delegated by means of a standing cascade. That means that there are no long lists in this constitution of specific powers and who they have been delegated and sub-delegated to.
- 2.2 Instead, there is a standing delegation of all necessary powers from the Council and the Cabinet (and their committees) to the Chief Executive and from there to each Strategic Director and the Directors. The cascade continues down through the Directors to team managers and relevant officers in each Service.
- 2.3 In each case the powers delegated are the full range and extent of powers vested in the authority from time to time as necessary in order to discharge functions, implement decisions, and undertake the efficient operational management of the Services that the Strategic Directors and Director are responsible for.
- 2.4 This includes the power to do anything ancillary or incidental to, arising from, or necessary to give effect to or facilitate the exercise of powers and the discharge of functions delegated to officers.

### **3. Use of Powers**

- 3.1 When officers act under delegated powers, they do so in the name of their Director or Strategic Director who will retain ultimate responsibility for ensuring that powers are exercised at the appropriate level by suitably competent and qualified officers.
- 3.2 It is for team managers and Director, in conjunction with their Director, to determine, record and keep under review the extent to which officers in their service are authorised to exercise delegated powers in their name. They shall do this by ensuring that there is clarity in setting out their Service and team structures and defining the respective roles of their officers.
- 3.3 It is the responsibility of each officer in the chain of cascade to ensure that powers are being exercised at the most appropriate level by suitably competent and qualified officers. They shall at all times have due regard for the nature, subject matter, and likely impact of any decision and liaise closely with those above them in the chain of cascade, including relevant Members, especially where a matter has potentially significant strategic, policy or operational implications.
- 3.4 Any ambiguity that may arise as to whether or not a particular officer is, by reference to the terms of their appointment, job or role description, or their position in the organisation, authorised in respect of any particular function is to be resolved by reference back up through the chain of cascade to team managers, Director, Strategic Directors or ultimately to the Chief Executive as appropriate who shall, where necessary, give written confirmation of the allocation of any given responsibility.
- 3.5 In exceptional circumstances, and with the agreement of those above them in the chain of cascade, Officers may decline to exercise powers which rest with them where it is considered, in all the circumstances, that it would be more appropriate for another officer (whether or not further up the chain of cascade) or for Members to exercise the power instead.
- 3.6 Unless specifically prohibited by the terms of any authorisation, officers may arrange for any power which rests with them to be discharged by another suitably competent and qualified officer but they shall remain responsible for

any powers so exercised.

3.7 Officers may direct that certain types of decisions, or decisions on particular matters, be reserved to them (or to another officer) notwithstanding that they would ordinarily be taken at a point further along the chain of cascade.

3.8 Where the duly empowered officer closest to the point of service delivery is unavailable or unable to act then, subject to any specific arrangements that may have been put in place, a suitably qualified and competent officer who is most proximate to the absent officer in the chain of cascade is empowered to act in place of that officer. This will usually follow the chain of cascade or line of management back up through team managers and Directors to the Chief Executive.

#### **4. Controls on the Use of Powers**

4.1 Officers are not empowered in respect of matters that are specifically reserved to Members or which amount to the adoption or implementation of new policy.

4.2 Officers are only empowered to act in respect of matters which fall foursquare within their Service area, suite of responsibilities and sphere of competence.

4.3 Officers who propose to exercise powers in respect of any matter that is not wholly within their Service area, suite of responsibilities or sphere of competence shall be obliged to act in consultation with and take appropriate advice from those officers with the relevant responsibilities and expertise and particularly from the Director of Finance and the Director of Governance in respect of financial and legal considerations.

4.4 Before taking decisions officers shall be satisfied that they can demonstrate, by keeping appropriate records, that they are duly authorised to act and that they have undertaken all appropriate consultation.

4.5 Officers must at all times observe and abide by the principles and controls governing officer decision making contained in Section A2.

#### **5. Notices, Authorisations, Determinations, Orders, Licences, Agreements, and Consents**

5.1 For the avoidance of doubt the cascade of power through the officer structure includes the power to take all action necessary in connection with or ancillary to:-

- a) the instruction of the Director of Governance in respect of legal (or quasi legal) proceedings.
- b) the authorisation of officers as may be required by statute (whether as “Proper Officers” or otherwise) to undertake certain roles, or to exercise or discharge any powers, duties or functions including investigatory or regulatory functions and affecting entry to land or premises;
- c) the issuing, service, variation, or withdrawal of any notice, direction, determination, requisition, ultimatum or demand;
- d) the making, confirmation, variation or withdrawal of any order or regulation;
- e) the formation, variation or termination of any contract or agreement;
- f) the grant, variation, withdrawal or termination of any permission, authorisation, license or consent.

## **6. Authorising Expenditure and Signing and Sealing Agreements**

- 6.1 The Finance and Contract Procedure Rules and individual Service Schemes of Financial Delegation will set out the financial limits that officers must work within and procedures that they must follow when authorizing expenditure.
- 6.2 The Finance and Contract Procedure Rules (Section G4) set out which documents can be signed by officers within individual Services and which documents must be signed and/or sealed by the Director of Governance.

## **7. Legal Proceedings and Protecting the Council’s Interests**

- 7.1 All matters in respect of the conduct of legal (or quasi legal) proceedings (including the authentication or execution of documents) are reserved to the Director of Governance (and his/her duly authorised officers) who shall be authorised to institute, defend, settle, discontinue or otherwise participate in any such proceedings or take any other action considered necessary to give effect to decisions or protect the interests of the Authority.

Note: Following a change to the Council’s Senior Management structure in September 2014 all delegations made by Council or Committee to the previous Director of Resources now sit with the Chief Operating Officer as the Section 151 Officer.