

6. POWERS EXERCISABLE BY OFFICERS

- 6.1 Except where indicated otherwise, the following paragraphs of this Appendix describe the allocation of both Executive and non-Executive functions to Officers. Table 1 below sets out a list of powers which are exercisable by Officers. The list is without prejudice to the general provisions of this Appendix which follow.

6.2 Authorisations and Limitations

(a) Management Delegations

Subject to the exclusions summarised at (c) below, the limitations set out in (d) below and full compliance with the procedure rules, regulations and policies and procedures referred to in 3 below, each Director/Executive Director is authorised to exercise the Council's powers (including those relating to Executive responsibilities) in relation to the day-to-day management of the Department for which he or she is responsible, including authority to:-

- (i) appoint, manage and dismiss staff, save in respect of appointments and dismissals of senior Officer (ie Deputy Chief Officer or above) posts reserved for Member appointments and subject to prior consultation with the Chair of the Employment Committee in cases of 5 or more redundancy dismissals;
- (ii) make minor alterations to departmental structures;
- (iii) place orders, and enter into contracts for, the supply of goods and services and, where appropriate, for building and engineering works; and to authorise or incur any other expenditure for which provision has been made in the appropriate Revenue or Capital Budget;
- (iv) manage any physical assets, including land and buildings, acquired by or allocated to the department for which the Director is responsible;
- (v) accept the surrender of leases and licences where these are in the interests of good asset management and where there is no significant adverse financial effect upon the Council;
- (vi) approve the release of Section 106 funds where these are included in an approved capital budget, in consultation with the appropriate Executive Member; and
- (vii) respond to consultation papers published by or on behalf of the government or a government agency, in consultation with the relevant Executive Member, Committee Chairman or the Mayor, as appropriate.
- (viii) appoint proper and statutory Officers save where such decisions are reserved for Members

For the purposes of the above, day to day management shall be taken to include those items which have been recognised as such by past practice or by specific Committee resolution, or which the Chief Executive, in consultation with the appropriate Director, agrees is ancillary to or

analogous with matters accepted as being within the scope of day to day business exercised by Officers.

(b) Authorised Delegations

Subject to the same considerations set out in (a) above, the Chief Executive or a Director may take operational decisions and exercise any of the Council's powers in relation to the service for which he/she is responsible as set out in Table 1 to this Part of the Constitution.

For this purpose, the term "operational decision" does not include:

- (i) decisions which cannot be made within established general policies or practices;
- (ii) decisions which lead to expenditure which cannot be met from approved budgets;
- (iii) the enactment, alteration or revocation of bylaws or private legislation;
- (iv) in the event of a civil emergency the Council's designated Senior Officer is authorised to exercise all the powers of the Council provided that the Senior Officer shall not be authorised to incur expenditure in excess of £100,000 without the concurrence of the Borough Treasurer or his designated nominee; and

(c) Limitation of Delegations

Delegations are subject to the following restrictions or conditions.

- (i) in exercising their delegated powers, officers shall also have regard to the authority and responsibility placed on the Chief Executive for the overall management and co-ordination of the Council and shall comply with any general management directives and requests for information.
- (ii) in dealing with matters requiring professional judgement, officers shall also have regard to any statutory responsibilities.
- (iii) where a matter requires a professional judgement and the officer is not professionally qualified in that subject, he/she shall seek appropriate professional advice before exercising his/her delegation.
- (iv) charges for services shall only be levied as set out in the annual budget approved by Council save that Directors may fix charges for any new service provided that such charges shall be reported to the next meeting of the Council's Executive Committee or Sub-Committee (as appropriate) and
 - (A) Directors may:-
 - set charges for any new service or vary charges for existing services (provided that such variation shall be reported to the next meeting of the Executive), and
 - (B) the Director of Environment, Culture and Communities may:-

- vary Leisure charges from time to time for limited periods for the purposes of promoting a service

(C) the Director of Children, Young People and Learning may in consultation with the Borough Treasurer increase foster care allowances in accordance with scales recommended by the National Foster Carers Association

- (v) Notices and Orders shall not be issued other than by the Borough Solicitor if he/she has indicated that such Notices should be issued in his/her name
- (vi) the making of Compulsory Purchase Orders is not delegated to Officers
- (vii) setting the overall level of budgetary provision within the divisions of service is not delegated to Officers
- (viii) a Director or a Chief Officer shall not exercise any delegated powers for any regulatory function in respect of any premises the management of which they are responsible for.

(d) Delegation to Subordinate Officers

A Director or other Officer referred to in Table 1 may arrange for other Officers under his/her control to exercise some or all of his/her powers, subject to.-

- (i) unless the Director otherwise agrees, such powers being exercised in the name of the Director;
- (ii) responsibility for any actions taken by a subordinate shall remain with the Director or other Officer referred to in Table 1.
- (iii) authority to incur expenditure or authorise payment shall only be delegated in accordance with Financial Regulations (Finance Procedure Rules); and
- (iv) notwithstanding the above, a valuation certificate which needs to be signed by a qualified valuer shall be signed by an Officer nominated by the Director of Resources.

A Chief Officer who has been authorised to exercise a power pursuant to the above may arrange for the power to be exercised by an officer under his/ her control, subject to (i) to (iv) above.

A Director may delegate a function to an officer in another department, subject to concurrence of the Director to whom the proposed delegate reports.

The Chief Executive may delegate any of his functions as Electoral Registration Officer to the Head of Democratic and Registration Services.

An officer employed by another local authority but who is placed at the disposal of the Council for the purpose of powers exercisable by the Director or Chief Officer, under an agreement entered into pursuant to Section 113 of

the Local Government Act 1972, shall be treated as being under his/her control.

(e) Authorised Deputies

- (i) Where there is a vacancy in the post of Chief Executive, Director or other Officer referred to in Table 1 or such person is unable to act the powers authorised to be exercised by the postholder may be exercised by the person(s) who are performing the functions of the post pending an appointment or who would perform them if there were such a vacancy.
- (ii) Where the post of a Director or other person referred to in Table 1 is vacant or the post holder is unable to act and there is no person able to act pursuant to (i) above the powers of the post holder may be exercised by the Chief Executive or if he/she is unable to act then by any other member of the Corporate Management Team.
- (iii) Where the post of a Director or other person referred to in Table 1 is vacant or the post holder is unable to act the Chief Executive (or in his absence the Deputy Chief Executive) is authorised to designate an officer to exercise the relevant delegated powers.

6.3 Standing Orders and Regulations etc Applying to Delegated Authority.

(a) General

At all times Officers exercising the powers under the delegation arrangements described above are acting on behalf of and in the name of the Council unless statutory provisions indicate otherwise. In order to provide high standards in public service and to demonstrate value for money, Officers are required to exercise their delegated authority within the framework approved by the Council, as summarised below.

(b) Financial Management

In all matters of financial management, Officers shall comply with the provisions of the Council's Financial Regulations set out in this Constitution. (Separate Financial Regulations relating to schools are included in the Council's Scheme of Local Management in Schools.)

(c) Contracts and Purchasing

No Officer shall place orders or authorise contracts to be awarded, otherwise than in accordance with the Council's Procedure Rules, as set out in this Constitution.

(d) Personnel Management (a non-Executive responsibility)

- (i) Recruitment may only be authorised where there is sufficient financial provision in the department's budget for the current financial year and where the costs (if any) of the appointment in the following year can be contained within the approved plans.

- (ii) In all other matters of personnel management, including remuneration, selection, training and the consideration of proposals having a direct impact on employee groups, Officers shall comply with the Council's personnel policies, regulations and codes of practice.
- (iii) Directors shall consult with the Borough Human Resources Manager on staffing matters having corporate implications including:
 - any proposals involving redundancy or early retirement on efficiency or medical grounds;
 - the application of the Council's job evaluation and grading scheme;
 - any extension of sick pay on half pay after the expiry of contractual entitlement for periods of more than 3 months;
 - awarding honoraria in excess of £1,000;
 - granting leave of absence without pay for periods in excess of 3 months;
 - payment of excess flexitime;
 - authorising the carry over and/or payment of annual leave in excess of 10 days.

(e) Management of Land and Buildings

- (i) In managing land and buildings under their control Officers shall comply with the policies and procedures agreed by the Council.
- (ii) Where land and buildings under the control of a department cease to be used for the purpose for which they were acquired or allocated, the matter shall be referred to the Executive.

(f) Information Technology Strategy

In all matters involving the use of Information and Communications Technology (ICT), Officers shall comply with the Council's Information Systems and Technology Strategy.

6.4 **Urgent Decisions (including Recess Arrangements)**

6.4.1 Save in respect of the period from the date of Election to (and including) the date of the Annual Meeting of the Council following the Election, where an immediate decision is required in connection with a non-Executive function on:-

- (a) a matter which would normally be referred for a decision to Council or to a Committee of the Council (other than an Overview and Scrutiny Committee) or a Sub-Committee and
- (b) the Mayor or the Chairman does not consider it appropriate to convene a special meeting

then, subject to (c) below, all the powers and duties of the Council, Committee or Sub-Committee may be exercised by the Chief Executive, or the appropriate Director, provided that the Chief Executive or Director:-

- (i) obtains the written agreement of the Mayor (and in the case of a decision normally referred to Council the written agreement of The Leader and the Leader of any Minority Group) or appropriate Chairman to the course of action proposed;
 - (ii) shall submit a full report on the decision to the first available meeting of the relevant body, including an explanation of the reason for urgency.
- (c) the extent of delegation authorised under this paragraph 6.4.1 is subject to the same exclusions, limitations and conditions that would have applied had the matter been dealt with by the relevant Committee, or Sub-Committee.

6.4.2 In respect of the period from the date of Elections to the Council until (and including) the date of the Annual Meeting of the Council following the Elections, where an immediate decision is required in respect of either an Executive or non-Executive function and (if the matter relates to a non-Executive function) the Mayor does not consider it appropriate to convene a special meeting then the decision may be taken by the Chief Executive provided that the Chief Executive:-

- (i) obtains the written agreement of the Mayor (or, in the event of the Mayor not being immediately available, the Deputy Mayor) to the course of action proposed;
- (ii) shall submit a full report on the decision to the first available meeting of the relevant body, including an explanation of the reason for urgency.

The extent of delegation authorised under this paragraph 4.2 is subject to the same exclusions limitations and conditions that would have applied had the matter been dealt with by the relevant Committee, Sub-Committee or Executive authority.

7. Urgent Decisions – Key Decisions

Articles 15 and 16 of the Access to Information Rules in Part 4 of this Constitution apply to Key Decisions which need to be taken urgently.

8. References to Legislation

Any references to legislation shall be deemed to include subordinate legislation.