

**COUNCIL
25 JUNE 2003**

**AMENDMENT TO OFFICER DELEGATIONS
(Director of Corporate Services – Legal/Director of Environment)**

1 INTRODUCTION

- 1.1 Part 3 of the Council's Constitution sets out the Scheme of Delegations to officers. It is proposed that the scheme be altered such that Tree Preservation Orders and Notices under the Building Act 1984, which currently have to be signed by the Borough Solicitor, should be signed by the Director of Environment or an officer employed within the Environment Department authorised by the Director.

2 RECOMMENDATION

- 2.1 **That Part 3 of the Council's Constitution be amended to add the signing of Tree Preservation Orders, Notices under the Building Act 1984 and under Building Regulations to the list of functions delegated to the Director of Environment.**

3 REASONS FOR RECOMMENDATION

- 3.1 There are occasions when Tree Preservation Orders or Notices under the Building Act have to be served expeditiously. To retain the Borough Solicitor as the only signatory to such Orders/Notices is administratively inconvenient due to the Environment Department being located in Time Square and the Legal Services Section being located in Seymour House. Also, the Borough Solicitor is not always immediately available to sign such Notices. As there is little if any legal input into the drafting of such Notices there is no reason why the officer responsible for determining whether an Order/Notice should be issued should not be the signatory to the relevant document

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The alternative option would be to retain responsibility for signing Tree Preservation Orders and Building Act notices with the Borough Solicitor but as outlined above that is unnecessarily bureaucratic and administratively inconvenient.

5 SUPPORTING INFORMATION

- 5.1 The Town and Country Planning Act 1990 allows the Council to make a Tree Preservation Order if it is considered expedient to do so in the interests of amenity to make provision for the preservation of trees or woodland in the area. A T.P.O. only takes effect when it is confirmed by the Council after considering any objections **unless** the Order contains a direction that it is to

take effect immediately. Given the circumstances which often prompt the making of a T.P.O. (i.e. site clearance works) an Order often has to be made expeditiously containing a direction that the Order will take immediate effect. The Scheme of Delegation as currently drafted provides for the Director of Environment to authorise the Borough Solicitor to make and serve T.P.O's. In practice, given that T.P.O's are in a standard printed format, they are prepared by officers within the Environment Department for signature by the Borough Solicitor.

- 5.2 The Building Act 1984 empowers the Council to take various actions in respect of defective premises. They include, for example, power under Section 79 of the Act to serve a Notice requiring works of repair or restoration where a building is in ruinous or dilapidated condition. The Building Regulations 2000 similarly empower the Council to serve various Notices in respect of buildings under construction. By way of illustration, the Council may serve notice requiring works to be opened up for inspection if proper notice of completion of the works has not been served upon the Council. As with TPO's, the existing Scheme of Delegation only allows the Director of Environment to authorise the Borough Solicitor to serve such Notices rather than the Director or an officer within his Department issuing them direct.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The advice of the Borough Solicitor has been incorporated into this report.

Borough Finance Officer

- 6.2 There are no financial implications arising from this report.

Access Implications

- 6.3 None

7 CONSULTATION

Principal Groups Consulted

- 7.1 None

Background Papers

None.

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