

POWERS EXERCISABLE BY OFFICERS

1. Introduction

Section 15 of the Local Government Act 2000 provides that executive arrangements may allocate functions which are the responsibility of the executive to officers. The Council has adopted executive arrangements which provide that any function which was delegated to officers prior to the adoption of executive arrangements will, following the adoption of the executive arrangements, be allocated to officers. In addition, the executive, a committee of the executive or an individual Member of the executive may arrange for an executive function to be discharged by an officer.

As regards non-executive functions, Section 101 of the Local Government Act 1972 stipulates that a council, a committee or a sub committee may arrange for a function to be discharged by an officer. The following parts of this Appendix specify those functions, both executive and non-executive, which are exercisable by officers.

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

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 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/she is responsible, including authority to:-

- (i) appoint, manage and dismiss staff, save in respect of appointments and dismissals of senior officer posts reserved for Member appointments;
- (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 Article 12 of this 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; and

(c) Limitation of Delegations

Delegations are subject to the following restrictions or conditions.

- (i) In exercising their delegated powers, directors 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, directors shall also have regard to any statutory responsibilities.
- (iii) Where a matter requires a professional judgement and the director 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 the Director of Environment and Leisure may:-

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

(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 Corporate Services and Resources.

(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 postholder is unable to act and there is no person able to act pursuant to (i) above the powers of the postholder 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.

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 Personnel 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.

4 Urgent Decisions (Including Recess Arrangements) – Non-Executive Functions

Where an immediate decision is required 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) submits 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 to delegation authorised under these arrangements 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.

5. Urgent Decisions – Key Decisions

Articles 15 and 16 of the Access to Information Rules in Part 4.2 of this Constitution apply to Key Decisions which need to be taken urgently.

References to Legislation

6. In this Appendix 1 any references to legislation shall be deemed to include subordinate legislation.

A. CHIEF EXECUTIVE AND DIRECTORS GENERAL POWERS

The Chief Executive and, for the purposes of those powers and duties which they are respectively authorised to discharge, directors, are authorised to take the following actions/measures:-

1. all actions/measures which are authorised by the Council's Contract Procedure Rules and Finance Procedure Rules.
2. authorising the Borough Solicitor to institute proceedings to recover monies due to the Council and/or to recover land owned by the Council.
3. authorising officers to exercise powers to enter land, to exercise powers of inspection, seizure and to detain goods.
4. respond to requests under Data Protection and Freedom of Information legislation

B. CHIEF EXECUTIVE

The Chief Executive is authorised to:-

1. take such measures as are appropriate in his/her capacity as Head of the Paid Service.
2. take such steps as are properly required to ensure the effective implementation of the decisions of the Council, its committees and sub committees and the Executive.
3. act as Returning Officer.
4. witness and receive declarations of acceptance of office and receive declarations of resignation of office under Section 84 of the Local Government Act 1972.

Head of Strategy and Partnerships

5. The Head of Strategy and Partnerships is authorised to submit planning applications on behalf of the Council.

C. DIRECTOR OF CORPORATE SERVICES AND RESOURCES

Operational and Corporate Management

The Director of Corporate Services and Resources is authorised to:-

1. secure and make arrangements for the provision of the following services to the Council:-
 - (a) Finance
 - (b) Legal
 - (c) Personnel
 - (d) Information and Communications Technology

- (e) Democratic Services and Support Services, including administrative support to the Council, scrutiny bodies and regulatory committees, the Executive, appeals and review processes; the management repair and maintenance of the Council's civic offices, the provision of catering services for the civic offices and the provision of a courier service for the delivery of Council documents
 - (f) Property Services
 - (g) Bracknell Forest Services (housing repair and maintenance)
 - (h) Customer Services
2. make arrangements for Mayoral transport and other Member support.
 3. maintain a register of Members' interests and Members' allowances.

Housing

The Director of Corporate Services and Resources is authorised to exercise the powers of the Council under Schedule 16 of the Housing Act 1985 (Local Authority Mortgage Interest Rates).

Council Tax and National Non-Domestic Rate Collection

The Director of Corporate Services and Resources is authorised to exercise the Council's powers and duties (including action to recover arrears) relating to Community Charge, Council Tax and Non-Domestic Rates excepting the determination of discretionary rate relief under Sections 47 and 48 Local Government Finance Act 1988.

D. [DELEGATIONS TO DIRECTOR OF EDUCATION AND LIBRARIES]

E. DIRECTOR OF ENVIRONMENT AND LEISURE

1. Subject to the exceptions and limitations set out in paragraph 2 below, the Director of Environment and Leisure is authorised to exercise the functions of the Council:-
 - 1.1 As Local Planning Authority and contained in all other legislation relating to Town and Country Planning (including Listed Buildings and Conservation Areas).
 - 1.2 Relating to trees and hedgerows.
 - 1.3 As Highways Authority, Street Authority, Traffic Authority, Local Traffic Authority and all other legislation relating to highways, transportation (including car and lorry parks), street management, street works and/or management and rights of way.
 - 1.4 Under the Building Act 1984 and all other legislation relating to dangerous buildings/structures protection of buildings, ruinous and dilapidated buildings and neglected sites and building control.
 - 1.5 Relating to licensing, registration and permits.
 - 1.6 Relating to weights and measures, fair trading, trade descriptions, consumer safety and trading standards.

- 1.7 Enforcement and inspection functions and related powers under legislation relating to Health and Safety at work.
- 1.8 Relating to food safety and quality (including signing of certificates in respect of the export/import of food products).
- 1.9 Relating to water quality, contaminated land, smoke control, pollution control, statutory nuisances, clean air and air quality.
- 1.10 Relating to pest control, notifiable diseases and food poisoning.
- 1.11 Relating to the recycling, the collection, disposal, management and regulation of waste.
- 1.12 Relating to street maintenance and grounds maintenance.
- 1.13 Relating to weighbridges.
- 1.14 Relating to Bracknell Market.
- 1.15 Relating to Emergency Planning.
- 1.16 Relating to litter.
- 1.17 Relating to arrangements for the disposal of the dead, cemeteries and crematoria.
- 1.18 Relating to dogs and animal welfare.
- 1.19. Under the Berkshire Act 1986.
- 1.20 Relating to recreation, leisure, open spaces, arts and cultural activities.
- 1.21 Relating to grants.
- 1.22 Under Anti-Social Behaviour legislation relating to:-
 - Anti-Social Behaviour Orders where the securing of such Orders is considered appropriate in connection with any other functions delegated to the Director of Environment and Leisure.
 - Fixed Penalty Notices for graffiti and fly-posting.
 - The sale of aerosol paints to children.
- 1.23 Relating to the Coroners Service.
- 1.24 Relating to Explosives.
- 1.25 To appoint independent surveyors in the event of a Party Wall dispute.
- 1.26 Relating to drainage (including Land Drainage)
- 1.27 Under Parts VI, IX, X and XI of the Housing Act 1985.
- 1.28 Relating to public conveniences septic tanks cesspools and private sewers.
- 1.29 Relating to the removal and disposal of abandoned vehicles and untaxed vehicles.

- 1.30 The approval of grants for the renewal or improvement of housing.
- 1.31 Objecting to the granting of bookmakers permits and lodging objections to betting office licences.
- 1.32 Arranging for the removal to suitable premises of persons in need of care and attention under Section 47 of the National Assistance Act 1948.
- 1.33 Relating to archives and museums.

2. **Exceptions and Limitations**

2.1 Paragraph 1.1:-

- (a) applications made by members of the Council staff
- (b) applications which any single Member of the Council expressly requests should be determined by the Planning & Highways Committee provided that the request is supported in writing by a valid planning reason
- (c) applications attracting valid planning objections before a delegated decision is made, where objections arise from not more than three households and/or organisations will only be determined by the Director of Environment and Leisure if he considers it appropriate to do so following reference to the Chairman of the Planning & Highways Committee and Ward Councillors
- (d) applications which if approved would be contrary to the Development Plan
- (e) applications submitted by or on behalf of the Council which relate to land or property owned or managed by the Council
- (f) in relation to the modification/discharge of Planning Agreements where a duly made objection has been received and/or the Agreement is concerned with the provision of, or payments towards the provision of infra-structure and facilities
- (g) minor variations to planning obligations may only be made where they do not involve a reduction in the overall level of financial contribution or the deletion of or addition of planning obligations
- (h) applications for buildings to be listed where there is significant public interest
- (i) confirmation of Tree Preservation Orders where any valid objection has been received
- (j) authority to authorise the Borough Solicitor to issue/withdraw/waive or relax Enforcement Notices, Stop Notices and Listed Building Enforcement Notices shall only be given following consultation with the Chairman of the Planning and Highways Committee
- (k) authority to relax, delete or vary conditions attached to permissions and consents is limited to where the permission or consent was given under delegated powers

- (l) agreement to minor variations/alterations for plans shall be determined in accordance with Minute 100 of the Development Committee 28th May 1992.
- (m) the approval of Local Development Documents.
- (n) the designation of Conservation Areas.
- (o) the revocation of Planning Permission.

2.2 Paragraph 1.3:-

- (a) authorisation for the Borough Solicitor to enter into Agreements under Section 72 or 278 of the Highways Act 1980 can only be given where works to the highway/widening of the highway are required as part of a scheme for which planning consent has been obtained or which has been approved by or on behalf of the Executive
- (b) construction of road humps and approval to traffic calming works
- (c) street naming/renaming, numbering and renumbering should be carried out in accordance with the procedure agreed by the Planning & Transportation Committee on 15th October 1998
- (d) applications for consent to hold social events on a highway may only be determined following consultation with the relevant Executive Member, Ward Councillors, the Police and Parish Council
- (e) Traffic Management Schemes and Minor Road Improvements may only be authorised up to a maximum of £50,000 per scheme and if Ward Councillors have raised no objection provided that any such works may be authorised where they are required urgently in the interests of road safety
- (f) authority to enter into Public Path Creation Agreements is limited to where there is no capital payment by the Council
- (g) authority to instruct the Borough Solicitor to make Traffic Orders in respect of approved schemes is limited to where no objection has been received

2.4 Paragraph 1.5:-

- (a) the designation of streets under street trading legislation (the Director may take steps preliminary to the designation)
- (b) the functions which the Licensing Act 2003 requires or guidance issued by the Secretary of State thereunder advises should be carried out by the Council, a Committee or Sub-Committee
- (c) the approval of Model Conditions.

2.5 Paragraph 1.11 – the letting of contracts for refuse collection, and the approval of policies as to waste receptacles.

2.6 Paragraph 1.12 - the letting of contracts for street cleansing.

- 2.7 Paragraph 1.14 – the setting of stall rentals or the letting of contracts for the operation of the market.
- 2.9 Paragraph 1.15 – the approval of the Emergency Plan.
- 2.10 Paragraph 1.16 – the designation of litter control areas.

F. [DELEGATIONS TO DIRECTOR OF SOCIAL SERVICES AND HOUSING]

G. BOROUGH FINANCE OFFICER

The Borough Finance Officer is authorised to:-

- 1. Take all appropriate steps and measures to discharge the function of the Borough Finance Officer as having responsibility for the administration of the financial affairs of the Council under Section 151, Local Government Act 1972.
- 2. Arrange insurance on behalf of the Council.
- 3. Authorise the Borough Solicitor to institute legal proceedings to recover monies due to the Council.
- 4. Invest surplus monies in accordance with the Council's approved investment policies.
- 5. Raise loans as required.
- 6. In consultation with the Director of Social Services and Housing and the Borough Solicitor, act in the administration of:-
 - (a) an estate of a deceased person where a child or young person for whom the Council has parental responsibility has an interest in the estate, or
 - (b) a child or young person who has died whilst in the care of the Council.
- 7. Jointly with the Borough Solicitor, accept and manage money or other gifts from third parties for and on behalf of children or young persons.
- 8. Write off irrecoverable debts.
- 9. To discharge his/her functions and exercise his/her powers under Contract Standing Orders and Financial Regulations.

H. BOROUGH SOLICITOR

The Borough Solicitor is authorised to:-

- 1. Make such orders, issue such notices and execute such agreements and instruments as are necessary to give effect to any decision or authorisation of the Council, its committees, sub committees, the Executive or of an officer acting within the scope of his/her authorised powers.

2. On behalf of the Council, to defend, institute, appeal from, settle or abandon any legal proceedings whether administrative, civil or criminal in any court arbitration or tribunal.
3. Pursuant to Section 223 of the Local Government Act 1972 and other relevant legislation and Practice Directions, authorise persons other than solicitors or barristers to represent the Council in legal proceedings.
4. Determine whether inspection of a document in the possession of the Council should not be allowed on the grounds that it is, or in the event of legal proceedings would be, protected by privilege arising from the relationship of solicitor and client.
5. Certify or authenticate any matter requiring certification or authentication on behalf of the Council.
6. Determine applications for formal registration or certification made in pursuance of any legislation conferring such a function upon the Council in any cases where a director is not authorised to take such action.
7. In consultation with the Director of Social Services and Housing and the Borough Finance Officer, act in the administration of -
 - (a) an estate of a deceased person where a child or young person for whom the Council has parental responsibility has an interest in the estate, or
 - (b) a child or young person who has died whilst in the care of the Council.
8. Jointly with the Borough Finance Officer accept and manage money or other gifts from third parties for and on behalf of children or young persons in care.
9. Exercise the Council's powers to be a Trust Corporation.
10. Exercise the Council's powers and duties in relation to commons, and town and village greens.
11. Act as the Monitoring Officer.
12. Discharge the Council's functions in connection with Civil Registration Services and Electoral Registration.
13. To discharge his/her functions and exercise his/her powers under Contract Standing Orders and Financial Regulations.
14. To discharge the Council's functions under the Data Protection and Freedom of Information legislation.

I. HEAD OF PROPERTY

1. Subject to the exceptions and limitations in Paragraph 2 below the Head of Property is authorised to:-
 - 1.1 Grant disposal, create or acquire land or interest in land (including wayleaves and easements).

- 1.2 Grant or secure Licences relating to the occupation and use of land.
- 1.3 Determine rent reviews and grant consents and/or take any other action under the terms of a transfer of land to or by the Council, Lease or Licence relating to the use and/or occupation of land
- 1.4 Agree all payments in connection with the acquisition of land under Compulsory Purchase Powers, including home loss and disturbance payments.
- 1.5 Submit planning applications on behalf of the Council.
- 1.6 Authorise the service of Notices under Landlord and Tenant legislation and other Agreements in respect of land

2. **Exceptions and Limitations**

- 2.1 Rent reviews and the grant or renewal of Leases or Licences providing for the rental of £50,000 or more shall be reported to the Executive Member for information
- 2.2 The authority to grant any Licence, wayleave or easement is limited to those instances where no security of tenure is to be obtained and the length of the term does not exceed five years
- 2.3 Authority to acquire a Licence, wayleave, easement, tenancy, lease of land or building for any purpose is limited to those instances where the term does not exceed five years or rental or other consideration does not exceed £10,000 per annum and the acquisition having previously been agreed in principle by or on behalf of the Council or the Executive
- 2.4 Any decision relating to property comprised within the Housing Revenue Account shall only be taken after consultation with the Director of Social Services and Housing
- 2.5 The acquisition of any freehold interest in the land is subject to the acquisition having been previously agreed in principle by or on behalf of the Council or the Executive and the consideration not exceeding £500,000
- 2.6 Authority to dispose of amenity land is limited to land not exceeding 0.1 hectares
- 2.7 Authority to dispose of the Council's interest in surplus land is limited to land not exceeding 0.2 hectares and to the disposal having been previously agreed in principle by or on behalf of the Council or Executive

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