

# Chapter 6 – Scheme of Delegation to Officers

## Part 1 – Functions which are Delegated to Officers

This section sets out those functions which have been delegated to officers.

### 1. Powers of delegation

- 1.1 Non-Executive Functions are delegated to Officers from Council, Committees and Sub-Committees under section 101 of the Local Government Act 1972. In the case of licensing and gambling, under section 10 of the Licensing Act 2003 or section 154 of the Gambling Act 2005
- 1.2 Executive functions are delegated to Officers by the Leader or from the Cabinet, Cabinet Committees or individual Cabinet Members under section 14 of the Local Government Act 2000.
- 1.3 Functions are delegated to the Director of Public Health under section 73A of the National Health Service Act 2006, as amended by the Health and Social Care Act 2012

### 2. Basis of Delegation

- 2.1 Where the Council, a Committee or Sub-Committee, the Leader, Cabinet, a Cabinet Committee or an individual Cabinet Member has delegated a function to an Officer, the person or body making the delegation may at any time resume responsibility for the function either in respect of a particular matter or generally, and so may exercise the function despite the delegation.
- 2.2 An Officer to whom a power is delegated may refer the matter to the Chief Executive, or to the person or body making the delegation, for their determination. It will be appropriate for the Officer so to refer a matter:
  - (a) To the Chief Executive where the determination of the matter raises issues of corporate priorities or the co-ordination of the discharge of various functions of the authority
  - (b) To the person or body making the delegation where the determination of the matter is likely to be particularly controversial or raises issues of policy which it would be appropriate for Members to determine; or could, by its scale or complexity expose the Council to major corporate risk which cannot be contained within Directorate Budgets
- 2.3 In exercising any delegated powers, Officers should ensure that decisions are consistent with Council policy, within approved spending limits, and in the best interests of residents and the Council as a whole. Elected Members should be informed/consulted as appropriate depending on the nature and sensitivity of the decision.

### **3. Conflicts of Interest**

- 3.1 Every Officer is responsible for identifying whether he/she has any conflict of interest in any matter which is under consideration, actual or perceived, within the authority, and notifying the authority (including under section 117 of the Local Government Act 1972).
- 3.2 Where an Officer has a conflict of interest in any matter, he/she shall not participate in that matter in his/her capacity as an Officer except with the prior approval of his/her line manager, the Monitoring Officer or the Chief Executive.
- 3.3 Where the Chief Executive is unable to act on a matter because of a conflict of interest, the matter shall be discharged by the one of the Directors designated by the Chief Executive, where the designated Director is unable to act the matter shall be discharged by the Directors collectively, or by such Officer as they shall determine for this purpose.
- 3.4 Where a Director is unable to act on a matter because of a conflict of interest, the Chief Executive shall discharge the matter him/herself or allocate the matter to another Officer.
- 3.5 Where the Monitoring Officer is unable to act on a matter in his/her statutory capacity under section 5 of the Local Government and Housing Act 1989, the matter shall be discharged by the Officer designated by the Monitoring Officer as Deputy Monitoring Officer.
- 3.6 Where the Monitoring Officer is unable to act on a matter in relation of Member conduct, the matter shall be discharged by the person appointed by the Monitoring Officer for this purpose under section 82A of the Local Government Act 2000.
- 3.7 Where any other Officer is unable to act on a matter that Officer's line manager or the Chief Executive may arrange for another Officer to discharge the matter.

### **4. The Context for the Exercise of Functions**

- 4.1 The Chief Executive and Chief Officers/Directors are authorised to discharge all the functions of the authority within their areas of responsibility as defined below and subject to the General Conditions and Limitations set out below. Each Chief Officers/Director is required to agree with the Chief Executive an internal scheme of management for their Directorate.

#### **General Conditions and Limitations**

- 4.2 In taking any decision, each Officer must ensure that they have acted in a considered, well informed and defensible manner which is in the best interests of the Council and its residents. The more significant the decision, the greater the obligation to demonstrate that appropriate consideration has been given to the way the decision was made.
- 4.3 As a general rule all decisions will need to be made with a full understanding of Council policy relating to the decision, an awareness of relevant legal obligations including equality requirements, and a clear assessment of the impact of the decision on those affected. Decisions will also need to be consistent with the Council's Budget strategy and will need to be effectively risk assessed.

- 4.4 The obligation to ensure that these issues are properly understood rests with decision makers. Where doubt exists advice must be taken from those officers who are professionally qualified to give advice such as the Council's Monitoring Officer. Officers must not commit the Council to a course of action which will entail financial obligations beyond those approved by the Council.
- 4.5 Where the decision is politically sensitive or likely to affect significant numbers of residents, decision makers are under a general obligation to consult with those from whom the decision is delegated and ward Members where appropriate. Where realistic choices exist and where good practice would suggest it to be appropriate public consultation should be undertaken after consulting with appropriate Members.
- 4.6 No Officer other than the Assistant Director of Law and Governance shall authorise or institute any legal proceedings or process or instruct legal agents or Counsel without the prior written consent of the Assistant Director of Law and Governance.
- 4.7 The powers delegated to Officers shall not include the power to take a Key Decision, save that the Chief Executive and Chief Officers/Directors may take a Key Decision where the matter is so urgent that it is appropriate, for the protection of the interests of the authority or its area. For the purposes of this scheme, urgent shall mean any situation in which the relevant officer believes that there is a risk of damage to property, a threat to the health or well-being of an individual or that the interests of the Council may be compromised. These powers shall be exercised in accordance with Contract Procedures Rules.
- 4.8 This Scheme of Delegation is set out as far as possible, in terms of broad areas of responsibility rather than in terms of specific statutory powers. The Chief Executive shall be responsible for co-ordinating the discharge of the authority's functions between the various Officers.
- 4.9 The Chief Executive may allocate or re-allocate responsibility for functions between Officers as necessary for the effective discharge of those functions or to cover absence of particular Officers.
- 4.10 Where an Officer is going to be absent for a period of time, he/she or his/her line manager may re-allocate responsibility for that Officer's functions as necessary to ensure the effective discharge of those functions during the Officer's absence. Where the Chief Executive is going to be absent for a period of time then responsibility for the Chief Executive's functions as necessary to ensure the effective discharge of those functions during the Chief Executive's absence shall be allocated to a designated Director by the Chief Executive. Where the designated director is also absent or unable to act the Chief Executive functions shall be discharged by the Directors collectively, or by such Officer as they shall determine for this purpose
- 4.11 Where a function is delegated to an Assistant Director, it shall also be exercisable by the Chief Executive and Chief Officers/Directors. Where a function is delegated to a Chief Officer/ Director it shall also be exercisable by the Chief Executive, except the functions of Monitoring Officer and Section 151 Officer. Where a function is stated to be specifically delegated to a particular Officer, that function shall not be exercised by any other Officer, except in accordance with this Scheme.

### **General Delegation to Chief Executive and Chief Officers/Directors**

4.12 Without prejudice to the generality of the foregoing the Chief Executive and Chief Officers/Directors shall have the power:

- (a) to take all lawful action consistent with overall Council policy to deliver agreed strategy plans and policy within their area of responsibility and within approved Budgets, service plans, contract and financial procedural Rules , the general obligation to act in the best interests of Residents and the Council and to achieve value for money. This shall include, but not exhaustively:
- (b) to incur expenditure on the Council's behalf within the sums approved by Council and to procure goods and services consistent with the Council's procurement policies
- (c) to deal with invitation and acceptance of tenders within the limits set out in the Contracts Procedure Rules including:
  - (i) submission of bids for funding in consultation with the relevant Cabinet Member where this does not imply an ongoing commitment to the Council when the funding ends, requires match funding that cannot be met within Directorate Budgets or could, by its scale or complexity expose the Council to major corporate risks which cannot be contained within Directorate Budgets.
  - (ii) write-off of irrecoverable debts within the limits of the Finance Procedure Rules
  - (iii) virement (within the Budget and Policy Framework) and limits of the Finance Procedure Rules
  - (iv) service or placing of any necessary statutory or other notices (other than those expressly reserved to Council, Committee or Cabinet)
  - (v) after consultation with the Assistant Director of Law and Governance, authorising the institution, defence or appearance in criminal or civil proceedings in relation to any legislation which they are responsible for monitoring, enforcing or otherwise implementing on behalf of the authority
  - (vi) the award of settlements arising from Ombudsmen's' recommendations under £10,000
- (d) to put in place staffing and management arrangements for the delivery of services which are consistent with the Council's strategic management arrangements and staffing policies

Where decisions involve significant ongoing financial commitments, legal obligations, changes to the way services are provided these will require executive approval

4.13 The Assistant Director of Law and Governance is authorised:

- (a) to take any action to implement any decision taken by or on behalf of the authority, including the signature or service of statutory and other notices and any document
- (b) to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary, in the view of the Assistant Director of Law and Governance, to give effect to decisions of the authority or in any case where the Assistant Director of Law and Governance considers that such action is necessary to protect the authority's interests
- (c) to instruct counsel, solicitors or other experts for legal proceedings, public inquiries, or other matters involving the authority
- (d) to enter objections to any proposal affecting the authority, the authority's area or the inhabitants of the authority's area
- (e) to act as the authority's Monitoring Officer under sections 5 and 5A, Local Government and Housing Act 1989

4.14 For the avoidance of doubt, anything which is not covered by this scheme, including the appointment of a proper officer for the purpose of any statutory function, will be determined by the Chief Executive.

## **5. Recording, Implementing and Accounting for Decisions**

5.1 The Openness of Local Government Bodies Regulations 2014 require a written record to be made of any decision that has been delegated to an officer under a specific express authorisation, or under a general authorisation where the effect of the decision is to:

- (a) grant a permission or licence;
- (b) affect the rights of an individual; or
- (c) award a contract or incur expenditure which, in either case, materially affects the Council's financial position

5.2 The written record referred to in Rule 5.1 above must be produced as soon as reasonably practicable after the decision has been made and must contain the following information:

- (a) the date the decision was taken;
- (b) a record of the decision taken, along with the reasons for the decision;
- (c) details of alternative options, if any, considered and rejected; and
- (d) where the decision has been delegated under a specific express authorisation, the names of any Member of the Council who has declared a conflict of interest in relation to the decision

5.3 The written record of the decision, together with any background papers, must be made available for inspection by members of the public as soon as reasonably practicable after the decision has been made:

- (a) at all reasonable hours at the Civic Offices;
- (b) on the Council's website,
- (c) by such other means that the Council considers appropriate

- 5.4 The written record of the decision must be retained and made available for public inspection for at least 6 years. Any background papers referred to by the decision-maker should be retained and made available for public inspection for at least 4 years. The relevant retention period will begin with the date on which the decision, to which the written record and any background papers relates, was made.
- 5.5 Nothing in the above Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence, or, information that, in the opinion of the Monitoring Officer can be defined as exempt, as set out in Chapter 8 of the Constitution.
- 5.6 Each Officer is responsible for ensuring that any decision which they take is properly recorded in line with the provisions of Rules 5.1 to 5.5 above, and that the record of that decision is available to other Officers, to Members and to the public as required by statute and this Constitution, particularly if the decision relates to a change in policy or practice, or a financial commitment.
- 5.7 The Openness of Local Government Bodies Regulations 2014 state that a person who has custody of a document which is required to be made available for inspection by members of the public will commit an offence if, without reasonable excuse, that person:
- (a) intentionally obstructs any person exercising a right conferred by the Regulations to inspect written records and background papers; or
  - (b) refuses any request made under the Regulations to provide written records or background papers
- 5.8 Every Officer is responsible for ensuring that any decision which he/she takes is implemented in accordance with that decision.
- 5.9 Every Officer is accountable for each decision which he/she takes and may be called to provide an explanation of his/her reasons for the decision and account for its implementation to other Officers, Members and statutory regulators.

## **6. Areas of Responsibility**

- 6.1 All matters not reserved to the Council, to the Executive, or to a Committee for decision are delegated to the appropriate Chief Officer/Director subject to the Conditions and Limitations above and the Contract and Finance Procedure Rules. Each Chief Officer/Director in making decisions under this scheme is required to do so within the internal scheme of management for their own Directorate. This will include appropriate monitoring arrangements and dissemination of information both internally and externally to the Council.
- 6.2 The areas of responsibility of each Chief Officer/Director shall be as follows, and shall include the areas of responsibility of each Officer within his/her Directorate.

## 7. The Chief Executive

### 7.1 The Chief Executive shall:

- (a) be Head of Paid Service
- (b) exercise corporate Council functions
- (c) incur expenditure and delegate responsibility to incur expenditure in the event of a civil emergency
- (d) in cases of urgency or emergency, take any decision on behalf of the Council (after consultation with the Leader)
- (e) for the purposes of the Local Government (Contracts) Act 1997, have authority with the Chief Finance Officer, and the Monitoring Officer and Assistant Director of Law and Governance – to sign each certificate given under the Act
- (f) with a nominee of the Director of HR, Organisational Development and Transformation, to make decisions on employee terms and conditions, (including procedures for dismissal), except those relating to:
  - Chief Executive, Chief Officers/Directors or other Senior Officer posts
  - changes to the Council's corporate pay grade structure
  - approving redundancies (other than those which arise purely as a matter of law) and early retirement applications, where there is a cost involved, including access to superannuation benefits and discretionary severance payments where the decision will be taken after advice from the Monitoring Officer and in consultation with the Section 151 Officer and the Leader
  - a settlement agreement for Chief Officers/Deputy Chief Officers where the decision will be taken by the General Services Committee
- (g) be responsible for determining Emergency Planning and Management Services with operational responsibility for the provision of these services being delegated to the Strategic Lead as Deputy to the Chief Executive in relation to this matter
- (h) be responsible for making appropriate management arrangements for the discharge of the following functions:
  - Performance Management arrangements throughout the Council
  - The efficiency programme of the Council
  - Communications, Policy and Performance
  - Overall corporate and commercial management of any external strategic partners of the Council including, Strategic Information and

Communication Technology, Strategic Procurement, Strategic Human Resources / Organisational Development and Customer Services

- Efficient management of the Thurrock Local Strategic Partnership, partnerships governance and the development of the sustainable community strategy

The Chief Executive will also be responsible for setting the strategic management arrangements for the Council and for the allocation of roles to Directors other than those which are statutorily prescribed.

## **8. Corporate Director of Children's Services**

8.1 The Director of Children's Services shall act as the statutory officer under section 18(1) of the Children's Act 2004 and will be responsible for all matters relating to the education of children and young people, for the safeguarding of vulnerable children and for promoting the general wellbeing of children and families and services as well as all learning and cultural services. The duties include:

- (a) Children's Social Care, youth offending and brighter futures early intervention.
- (b) Children and Families.
- (c) Learning and Universal Outcomes (school improvement, children with special needs and disabilities and admissions).
- (d) Schools Transport.
- (e) Children's Commissioning and service transformation service.

## **9. Corporate Director of Adults, Housing and Health**

9.1 The Corporate Director of Adults, Housing and Health shall act as the statutory officer for adult social services under the Care Act 2014 and will be responsible for all matters relating to the care and support of vulnerable adults, safeguarding of vulnerable adults. The duties include:

- (a) Adult Social Care Services (commissioning contracts and procurement service).
- (b) Housing Management.
- (c) Public Health.
- (d) Adult Social Care Fieldwork (safeguarding and legal intervention, mental health for older people, complex care, learning disabilities, east and west independence and prevention teams, rapid response and assessment, preparing for adulthood disabled young people 14-25, local area co-ordinators and community led support).
- (e) Adult Social Care Provider Services (carers centre services, Collins House residential care home, extra care, joint re-ablement team, Thurrock homecare and wellbeing teams).

- (f) Health and Care Transformation.
- (g) Community Development and Equalities Team.
- (h) Housing (business improvement, rents and welfare, tenancy services, travellers' service, estate services, sheltered housing, housing asset management, anti-social behaviour, housing safeguarding, private housing services, housing allocation and registration, housing solutions (housing options and temporary accommodation), concierge and CCTV).

## **10. Director of Place**

10.1 The areas of responsibilities of the Director of Place shall be:

- (a) Planning Transport and Public Protection.
- (b) Development Management (planning applications, planning committee, planning enforcement and building control).
- (c) Strategic Planning (local plan and joint strategic plan across South Essex).
- (d) Transport Development (supporting growth agenda, local transport scheme, funding bids).
- (e) Public Protection (environmental health, trading standards, emergency planning, food safety, licensing and health and safety).
- (f) Property and Development Teams.
- (g) Lower Thames Crossing.
- (h) Economic Development.

## **11. Director of Environment, Highways and Counter Fraud**

11.1 The areas of responsibilities of the Director of Environment, Highways and Counter Fraud shall be:

- (a) Street Scene and Leisure (clean and green services, recreation and leisure, waste services, enforcement and community protection).
- (b) Highways, Fleet and Logistics (highways infrastructure, network management, passenger transport unit and fleet management).
- (c) Clean and Green Services (street cleaning, parks and open spaces, burial services and arboriculture).
- (d) Recreation and Leisure.
- (e) Waste Services (waste collection, disposal and commercial waste).
- (f) Household Waste and Recycling Centre.

- (g) Enforcement and Community Protection (enforcement, Thurrock Community Safety Partnership, local community and visibility and counter extremism and terrorism).

## **12. Director of Public Health**

12.1 The Director of Public Health shall act as the statutory officer under section 73A of the National Health Service Act 2006, as amended by the Health and Social Care Act 2012, and in particular will act as Lead for the delivery of public health services within Thurrock.

12.2 The areas of responsibilities of the Director of Public Health shall be:

- (a) Health Improvement (address inequalities, improving wider determinants of ill health, strengthening families and communities, improving lifestyles).
- (b) Healthcare Public Health (improving clinical effectiveness, improving service efficiency, planning new services, audit and evaluation, clinical governance and ensuring equity of provision of and access to services).
- (c) Health Protection (controlling infectious diseases, chemicals and poisons, radiation, emergency response and environmental health hazards).
- (d) Children and Young People's Public Health.
- (e) Health Improvement and Protection.
- (f) Environment, Place and Community based Public Health.
- (g) Health Intelligence, Healthcare and Social Care Public Health.

## **13. Corporate Director of Finance, Governance and Property**

13.1 The areas of responsibilities of the Corporate Director of Finance, Governance and Property shall be:

- (a) The exercise of corporate Council functions in relation to accountancy, counter fraud and investigation, internal audit, insurance and risk, revenues and housing benefits, essential living fund, exchequer services, information technology, democratic services and elections
- (b) To be the Council's Chief Financial Officer under section 151 of the Local Government Act 1972.
- (c) Exclusion from the above delegations:
  - The approval of virements, carry forwards and writing off irrecoverable debts above the limits contained within the Financial Procedure Rules.
  - Determination of applications for mandatory and discretionary non-domestic rate relief and discretionary housing benefit outside the approved scheme.
- (d) Procurement

- (e) Procure to Pay (P2P)
- (f) Business Development
- (g) Traded Services

#### **14. Assistant Director of Law and Governance**

14.1 The areas of responsibilities of the Assistant Director of Law and Governance shall be:

- (a) Legal Services.
- (b) Members Services.

#### **15. Director of Human Resources, Organisational Development and Transformation**

15.1 The areas of responsibilities of the Director of Human Resources, Organisational Development and Transformation shall be:

- (a) Human Resources, Organisational Development and Payroll.
- (b) Resourcing and Improvement.
- (c) Information Management.
- (d) Transformation.

#### **16. Director of Strategy, Communications and Customer Services**

16.1 The areas of responsibility for the Director of Strategy, Communications and Customer Services shall be:

- (a) Strategy and Corporate Performance.
- (b) Communications.
- (c) Web.
- (d) Customer Services.
- (e) Performance, Quality and Business Intelligence (Social Care, Education).

#### **17. Detailed Scheme of Management**

17.1 Each Chief Officer/Director and/or Assistant Director in making decisions under the above scheme is required to do so within the internal scheme of management for their own Directorate.

17.2 This internal scheme of management will be approved by the Chief Executive and reviewed annually.