

## **SCHEME OF DELEGATION - TERMS OF REFERENCE: GENERAL CONDITIONS**

1. All matters delegated to the Cabinet, individual Cabinet Members, Committees, and employees shall be exercised in accordance with (a) the Council's Constitution and (b) any agency agreement or scheme.
2. No expenditure shall be incurred unless it is (a) provided for in estimates, (b) in accordance with any policy or directive of the Council or Cabinet and (c) in accordance with any annual or standing contract.
3. In the case of matters delegated to employees where any matter involves professional or technical considerations not within the sphere of competence of the employee concerned, they will consult with the appropriate professional or technical employee exercising powers under the Scheme of Delegation.
4. In lieu of exercising their delegated powers, an employee may refer the matter in writing to the Chief Executive, Deputy Chief Executive or Head of Service, to the Cabinet or to the appropriate Committee which shall then have the delegated power to determine the issue on behalf of the Council.
5. In lieu of exercising its delegated powers, a Committee (but not the Cabinet) may decide to refer a matter to Council. The Cabinet shall not exercise its delegated powers when a decision has been called-in in accordance with the Scrutiny Procedure Rules contained in the Council's Constitution.

The Licensing Committee (or, as provided in the Scheme of Delegation, its Sub-Committee) shall exercise all functions under the Licensing Act 2003 other than the determination, publication and review of the Council's Licensing Policy Statement and any consultation on the creation or review of the policy unless the Licensing Committee is prevented from carrying out its functions under the Act by virtue of legislation, statutory guidance or constitutional rules concerning interests, political balance or the quorum of the Committee.

6. In the absence of the appropriate Cabinet Member, or at the Cabinet Member's request, the Leader may decide to determine a Cabinet function delegated to a Cabinet Member themselves or refer the matter to the Cabinet or a Committee of the Cabinet.
7. In the absence of the appropriate officer from illness or leave, where a decision cannot reasonably be delayed until the return of the officer, that officer may sub-delegate their functions along the same principles as specified in the Executive Decision Making Sub-Delegation Scheme (ie:
  - In respect of functions within their remit.
  - Subject to consultation with the relevant Cabinet Member and Chief Executive when appropriate e.g. when taking key decisions, significant operational decisions and politically sensitive decisions)
8. In managing the service the Chief Executive, Deputy Chief Executive and all Heads of Service shall be authorised in their discretion to exercise such powers as may be provided by the relevant legislation including the service or receipt of notices, the making of agreements,

the making, revoking or amending of orders, the authorisation of any action and the authorisation of named employees to enforce specific powers.

9. To facilitate the scrutiny of decisions made under delegated authority, any employee dealing with a matter under a delegated authority shall keep an adequate record of the exercise of that power.
10. Reference in the scheme to the exercise of a power by a Head of Service includes reference to an employee acting in accordance with arrangements made by that Head of Service in writing for the organisation and management of their service area.
11. Day to day operational decisions relating to the management of a service area shall be the responsibility of the Chief Executive, Deputy Chief Executive and Head of Service.
12. Reference to a statutory provision includes any amendments, re-enactment or subordinate legislation thereof.
13. Reference to any EU legislation will be taken to include any such transitional arrangements and/or legislation put in place in relation to Brexit.
14. An executive decision making officers' operational online toolkit is available on the Council's intranet to help make it clearer to officers and Members who has the authority to take an executive decision and the processes to be followed.
15. Any changes to the Toolkit and associated processes will be the responsibility of the Monitoring Officer who will consult with Group Leaders on any more significant proposed changes.
16. The officers taking any decisions delegated to them (and, ultimately, the Chief Executive, Deputy Chief Executive and their respective Head of Service) will be responsible for following the processes initially although the Monitoring Officer will have the final say on the interpretation and use of the toolkit.

**(NB.** The Leader holds all responsibility for Cabinet functions and determines the Scheme of Delegation for the discharge of Cabinet functions. The Leader will determine which Cabinet functions are to be exercised by them personally and which are to be exercised by the Cabinet, Cabinet Committees, Individual Cabinet Members, employees, Area Committees, Joint Arrangements or another Local Authority. This Part of the Constitution reflects the Leader's current delegation of those functions.)

Part 3 of this Constitution details:

- Local Choice Functions
- Council / Committee Functions
- Cabinet (Executive) Functions (including the Cascade and Generic Delegation Scheme)