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Part Three, Section E

Officer Scheme of Delegation

Section 1. INTRODUCTION AND GROUND RULES
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1. **What is the Scheme of Delegation?**
 - 1.01. The Council's Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that the Council operates in an efficient, transparent and accountable manner.
 - 1.02. The Constitution describes the overall areas of responsibility for Members of the Cabinet and for Committees and Sub-Committees. However, to ensure that the Council runs efficiently, it is necessary for some decisions to be taken by officers. The Scheme of Delegation sets out which officers are empowered to undertake which decisions or actions on behalf of the Council.
 - 1.03. Where a delegation to an officer is of a continuing nature, for example to discharge a particular statutory power on an on-going basis, or it is expected to extend beyond six months, it has to be set out in a formal Scheme of Delegation within the Constitution.
 - 1.04. Certain types of decision must by law be delegated to an officer rather than being determined by Members. These include the appointment and dismissal of officers below Deputy Chief Officer level, discharge of the duties of the Returning Officer in elections and the Proper Officer functions. Other Council functions must by law be determined by Members, for example, setting the Council Tax and adopting the plans or strategies constituting the Council's Policy Framework. For the great majority of local authority functions, it is a matter of local choice for the Council whether they are exercised by Members or delegated to officers.
 - 1.05. The exclusions from the delegations to officer (i.e. the matters that are reserved for Members' decision) are set out in paragraphs 4.1 and 4.2 below. The structure of this scheme reflects best practice in other Local Authorities, notably the London Borough of Bexley, but

the actual effect is to continue Haringey's existing practice with respect to the extent of the powers delegated to officers.

2. Haringey Council's Schemes of Delegation

- 2.01. This document constitutes Haringey Council's Scheme of Delegation. The delegations are set out on a Directorate by Directorate basis in sections 2 - 7 of this document, while those general delegations that apply to all Chief Officers are brought together in section 8. Section 9 of this document sets out the Proper Officer Functions - a legal document that ensures that appropriate officers are nominated for all statutory powers requiring a Proper Officer *or a "specified officer"*.
- 2.02. The layout is as follows. For each Directorate, the overall delegated powers of the Director are set out in broad functional terms. These are then followed by a schedule of specific delegations for that Directorate, which are arranged in two parts: non-statutory and statutory. These specific delegations are included within the overall delegated powers. While all Local Authority powers are based on Statute, it is sometimes clearer to describe them functionally rather than by reference to the detailed legislation.
- 2.03. The Delegations follow a standard format to show:-
- (a) the subject matter for non-statutory delegations or *the relevant provisions of* the Act, or Regulations, for statutory delegations (in chronological order);
 - (b) *a description, for information only, of* the power delegated;
 - (c) the officer(s) to whom the power is delegated;
 - (d) where that power must be exercised in consultation with a Cabinet Member or Chair, the delegation is shown with an asterisk*.

3. General Principles of the Schemes of Delegation

- 3.01. This scheme delegates some of the powers and duties of the Council to Senior Officers. This scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation present and future within those descriptions, and all powers and duties incidental to that legislation. Any reference to legislation in this scheme shall include any subordinate legislation within the meaning assigned in the Interpretation Act 1978 and the requirements of European law having effect in English law.
- 3.02. This scheme operates under Section 101, Section 151 and Section 270 of the Local Government Act 1972 in relation to the delegation of non-Executive functions by the Council. This scheme also operates under section 15 of the Local Government Act 2000 in relation to the delegation of Executive functions by the Cabinet. Senior Officers are authorised to exercise the functions of the London Borough of Haringey, both Executive and non-Executive relating to their areas of

responsibility as set out in Appendix D of this Constitution including professional and managerial functions relating to the relevant Service subject to the limitations and reservations of the scheme.

- 3.03. This scheme includes the obligation on officers to keep Members properly informed of activity arising within the scope of these delegations and to ensure a proper record of such activity is kept and available to Members and the public in accordance with legislation. Therefore, each Director must ensure that there is a system in place within his/her Directorate which records any decisions made under delegated powers.
- 3.04. Regular reports (at least quarterly) shall be presented to the Cabinet Meeting, in the case of executive functions, and to the General Purposes Committee, in the case of non-executive functions, summarising all decisions taken under urgency provisions. These reports will be sent to the next full Council for noting. There should be no abuse of urgency provisions especially since this would undermine proper forward planning.
- 3.05. Regular reports (monthly or as near as possible) shall be presented to the Cabinet Meeting, in the case of executive functions, and to the responsible Member body, in the case of non-executive functions, recording the number and type of all decisions taken under officers' delegated powers. Decisions of particular significance shall be reported individually. ~~Significant decisions shall be reported for the attention of full Council by the relevant body.~~
- 3.06. In paragraph 3.05 a decision of "particular significance", to be reported individually by officers, shall mean a matter not within the scope of a decision previously agreed at Member level which falls within one or both of the following:
- (a) It is a spending or saving of £100,000 or more, or
 - (b) It is significant or sensitive for any other reason and the Director and Cabinet Member have agreed to report it.
- 3.07. The Council may require an officer to consult a Cabinet Member before exercising the delegation in specific circumstances. In this event the signed agreement of the Cabinet Member must be obtained. If there is disagreement, the officer must report the matter to the Cabinet Meeting for decision.
- 3.08. Powers exercised by an officer in relation to this scheme shall be exercised in accordance with the Council's Policy Framework and Budget, Employment Policies, Equal Opportunities Policies, the Officers' Code of Conduct, the Protocol on Officer/Member Relations, Council Procedure Rules, Contract Procedure Rules, Finance Procedure Rules and all other provisions of this Constitution and any statutory restrictions and requirements. Officers are particularly

required to make decisions in accordance with the Protocol for Officers Taking Decisions under Delegated Powers, set out at the end of Section 1 (paragraphs 7.01 to ~~7.07~~ 7.06).

- 3.09 The Chief Executive as Head of Paid Service, after consulting such Directors as is considered appropriate, shall be responsible for Corporate strategy, policy initiatives and integrated planning and service delivery.
- 3.10 If the post or office of any employee of the Council is vacant, or the employee is absent or otherwise unable to act, the most suitable senior officer available is hereby authorised to exercise the responsibilities of the vacant office and such action shall be recorded in writing by the Director with responsibility for the post or officer in question.

4. General Limitations:

4.01. This scheme does not delegate to officers:

- (a) Any matter reserved to full Council;
- (b) Any matter which by law may not be delegated to an officer;
- (c) Any matter expressly reserved to the Cabinet within its Terms of Reference or otherwise, by Standing Orders or Financial Regulations or withdrawn from delegation by this scheme or by the Cabinet or full Council;
- (d) Change to fees, charges or concession policies;
- (e) Decisions on permanent savings in the budget to achieve the Cabinet's policies;
- (f) The making of an order for the compulsory acquisition of land;
- (g) The acquisition of land in advance of requirements;
- (h) The confirmation of any order or the issue or grant of any permission, consent, licence or other determination that is the subject of a statutory right of appeal to an external authority that has been duly exercised.
- (i) The adoption, amendment or deletion of any strategic plan or policy as set out in the Terms of Reference of the full Council, the Cabinet or any Committee, Sub-Committee or Panel of the Council or The Cabinet.

4.02. Officers shall not be authorised by virtue of these provisions:

- (a) to incur any capital or revenue expenditure in excess of the estimates allocated to a function under the relevant head of expenditure, but subject to such modifications as may be made in accordance with Financial Regulations;
- (b) to authorise the adoption, exercise or discharge of any policy, power or duty of a kind which has not previously been undertaken by the Council;

- (c) to take a decision in contravention of any existing Council policy.
- 4.03. Where action needs to be taken on any urgent matter between meetings of The Cabinet, individual Cabinet Members or any Committee or Sub-Committee of the Council and, by virtue of paragraphs 4.01 or 4.02 above, such action would not be authorised within these provisions, the following rules shall apply:
- (a) in the case of executive functions, a report will be prepared for the Cabinet Member with portfolio responsibility for that Member to take the decision in advance of the scheduled meeting. The Protocol for Decision-Making in Part 5 shall be followed.
 - (b) where the matter has been allocated in the Forward Plan to the Cabinet Meeting and subsequently becomes urgent, the decision shall be referred to the Leader in accordance with the provision on Executive Functions in Part 3.
 - (c) in the case of non-executive functions, a report will be prepared so that the Chief Officer or Deputy Chief Officer having operational responsibility can take the decision in consultation with the Chair of the Committee or Sub-Committee having the matter within its terms of reference. The Protocol for Decision-Making in Part 5 shall be followed.

5. Further Provisions

- 5.01. In this scheme “Chief Officer” means an officer directly accountable to the Chief Executive and “Deputy Chief Officer” means an officer directly accountable to a Chief Officer (excluding for these purposes officers with secretarial, clerical or support service duties).
- 5.02. This scheme includes power for officers vested with delegated powers to nominate in writing other officers (described by name or post) to exercise any of their administrative functions either fully or under the general supervision and control of the officer primarily responsible. Nominations shall be notified to, on the forms supplied by, and recorded in a register kept by, the Head of Local Democracy & Member Services. Nominations may be made across departmental boundaries. (Any officer exercising powers or duties in pursuance of delegation will be politically restricted under Section 2 (1)(g) of the Local Government and Housing Act 1989).
- 5.03. A power specifically delegated by this Scheme to one officer shall not be exercised by another officer without the consent of the former.
- 5.04. It shall always be open to an officer to consult with the Committee or with appropriate Members on the exercise of delegated powers; or

not to exercise delegated powers but to refer the matter to the Cabinet or to a Committee of the Council.

- 5.05. In exercising delegated powers, officers shall consult the relevant Cabinet Member as required in Financial Regulations or Contract Standing Orders.
- 5.06. The Chief Executive's powers shall include the power to act where necessary in relation to any matter which is not the specific responsibility of a Director or where the appropriate Director is absent or prevented from acting and no other arrangements have been made.
- 5.07. In the event of a “catastrophic incident”, declared by the Secretary of State to be imminent or to have occurred, all Council Officers are authorised to take any action in accordance with the instructions of the Chief Executive or any external Chief Executive appointed to co-ordinate the actions of some or all London local authorities.
- 5.08. This scheme operates from the date approved by the full Council.

6. Responsibility for maintaining and updating the Scheme of Delegations

- 6.01. The delegations in this document are necessary for officers to perform their duties in order to discharge the Council's functions and responsibilities and to demonstrate if called upon to do so that they have the necessary authority to act. It is essential therefore that the contents of this document are kept up to date.
- 6.02. Each Director must ensure that there is a nominated officer in their Directorate who takes responsibility for considering changes the Scheme of Delegation. This officer must ensure that changes to existing legislation, proposed new legislation affecting the Directorate and new operational or policy developments are discussed with the Monitoring Officer. The Monitoring Officer will be responsible for preparing any necessary reports to full Council recommending amendments to the Scheme.
- 6.03. In cases where there is an immediate or urgent need to amend the Scheme of Delegation before a report can be considered by full Council, amendments may be authorised:
 - (a) ~~(i)~~ by the Leader in relation to any Executive function, and
 - (b) ~~(ii)~~ by the Chief Executive, acting in consultation with the Chair of the General Purposes Committee, in relation to any non-Executive function.

6.04. Any such urgent amendments to the Scheme will only be effective for six months unless they are formally adopted as amendments to the Constitution by full Council before the expiry of that period.

7. Protocol for Officers Taking Decisions under Delegated Powers

7.01. This Protocol applies to all decisions taken by an officer exercising delegated powers, including decisions taken in consultation with an Cabinet Member or Members or a Committee Chair. ~~It does not apply to day-to-day routine management decisions but it does apply to decisions having a significant effect on Borough residents, service users, partner organisations and others outside the Council.~~

7.02 There is no prescribed form for taking delegated decisions. Different types of report or record appropriate to the circumstances may be used provided the essential details are recorded in writing in every case. These are:

- (a) the name/post of the officer taking the decision,
- (b) the substantive facts, including what is being decided,
- (c) the reasons for the decision,
- (d) the expenditure authorised (if any), and
- (e) the date the decision was taken.

~~7.02. In every case there are certain mandatory requirements which must be addressed prior to a decision under delegated powers. The primary responsibility for compliance rests on the officer submitting the report but the officer proposing to exercise delegated powers must not proceed to make the decision unless the mandatory requirements are all met. There are no exceptions for urgency or otherwise except where there is express authorisation from the Chief Executive in the event of a civil emergency.~~

~~7.03. The mandatory requirements are:~~

- ~~(a) there must be a written report explaining the issue(s) to be decided~~
- ~~(b) the report must identify by name and post the officer submitting the report and the officer proposing to take the decision.~~
- ~~(c) the report must contain all the facts relevant to the decision~~
- ~~(d) the report must identify the delegated power(s) relied upon~~
- ~~(e) the Ward or Wards affected must be stated in the report~~
- ~~(f) the report must conclude with a clear recommendation setting out each significant element of the decision(s) required~~
- ~~(g) the date of the submission of the report and date of the decision itself must be recorded on the report.~~
- ~~(h) any financial implications~~
- ~~(i) any legal implications.~~

~~7.04. The officer submitting the report and the officer proposing to exercise delegated powers must both consider whether the nature of the decision and the circumstances require that any or all of the following discretionary matters should be expressly included in the report before the decision is made. If there is any doubt, the advice of the Monitoring Officer should be obtained.~~

7.03 The discretionary matters are: *The officer taking the decision is responsible for ensuring that all relevant points are recorded which may include, but are not limited to, the following:*

- (a) any financial implications (beyond stating the expenditure)
- (b) any legal implications
- (c) any environmental implications
- (d) any equalities implications
- (e) any relevant Council policies
- (f) any relevant national or regional guidance
- (g) any consultations undertaken and the views of consultees
- (h) any other implications for service delivery in the relevant Directorate
- (i) any implications for other Council services outside the Directorate
- (j) and any comments from other Directorates
- (k) any staffing implications
- (l) any background documents relied upon
- (m) any information in the report or background documents that could or should be restricted from public disclosure as confidential or exempt information under the Freedom of Information Act 2000
- (n) any alternative options to the recommended decision
- (o) any consultation with Members (whether Cabinet Members, Chairs or Ward Members).

7.04 *Officers taking delegated decisions should always consider carefully whether there are any factors that would make it advisable to consult the relevant Cabinet Member(s) or Chair of Committee in advance, for example, the sensitive or controversial nature of the decision.*

7.05 The officer exercising delegated powers is responsible for ensuring that all decisions taken are properly recorded in accordance with the procedure for the relevant Directorate. *Each Directorate will keep its own central record of all delegated decisions taken within its constituent services as well as those taken by the Director.*

7.06 The Chief Executive's Management Board may impose additional requirements in relation to some or all categories of delegated decision.