Part Three, Section E
Officer Scheme of Delegation

Section 1 INTRODUCTION AND GROUND RULES

1. What is the Officer Scheme of Delegation?

1.01 Part Three of the Constitution describes the overall areas of responsibility for the Council, the Executive 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. 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 Director 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.

1.02 This Section describes the functions, powers and duties delegated to the most senior officers of the Council within their areas of responsibility. All functions and decisions not reserved to Members - either the Executive or the Full Council or one of their Committees or Sub-Committees (and as listed in Part Three Sections B – D above) are delegated to officers.

1.03 In understanding the Officer Scheme of Delegation it is important to recognise the respective roles of Members and officers. Members and officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve until their term of office expires. As elected Members, they are responsible for determining Council Policy and Strategy. Officers are employed by, and are responsible to, the Council and as such are responsible for implementing policy and delivering services. Their job is to give advice to members and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, their committees and the management of the Chief Executive and relevant Director.

1.04 This scheme operates from the date approved by the full Council.

2. General Principles of the Officer Scheme of Delegation

2.01 For the purposes of officer delegated powers, both within this part and any other part of the Constitution, the term "Director" shall include the following officers:

- The Chief Executive
- Members of the *Council Leadership Team* *
- All Directors and Assistant Directors
- The Chief Executive of Alexandra Palace & Park (as appropriate)

For the purposes of officer delegated powers, the term "Council Leadership Team—" means[1]:

- The Chief Executive
  Director of Environment and Resident Experience
- The Director of Placemaking ~~and~~ & Housing
- The Director for Children~~'~~s Services
- The Director for Adults, Health ~~and~~ & Communities
- Director of Culture, Strategy ~~and~~ & Engagement
- The Director of Finance

For the purposes of officer delegated powers, the term "Statutory Officers[2]" means:

- The S151 Chief Finance Officer (This role is held by *the Director of Finance)*
- The Monitoring Officer
- The Director of Adult~~'~~s, Health & Communities ~~Services~~ • The Director of Children~~'~~s Services
- The Director of Public Health
- Senior LGPS Officer

Any functions delegated to Directors shall be exercised by Directors in respect only of the specific services for which they are responsible. These officer delegated powers shall be exercised in accordance with the following general principles.

2.02 Functions delegated to officers are to be exercised taking into account:

[4] NB. The Chief Executive and Head of Paid Service is a member of the Council Leadership Team - and is a Statutory Officer of the Council in law, however for the purposes of the Constitution, the Chief Executive and Head of Paid Service is extracted from these terms and addressed individually

- All other parts of the Constitution in particular the Financial Regulations and the Contract Procedure Rules at Part 4 of the Constitution
- The Budget and Policy Framework

- The approved Budget
- Any instructions given by the Chief Executive
- Any advice given by the Council's Chief Finance Officer (S151 officer) or the Monitoring Officer
- All legal requirements and any statutory codes of conduct or statutory guidance
- All codes, policies and protocols as may be approved by the Council or the Executive or one of their Committees or Sub-Committees
- Any relevant decisions of the Council or the Executive or one of their Committees or Sub-Committees

2.03 Any function delegated to an officer may also be exercised by any officer who has been so authorised by the officer to whom the function is delegated, or by the Chief Executive. Such authorisations shall be recorded and held by the officer making the authorisation. Officers authorised under this provision to exercise a power delegated to another officer should be either fully or generally under the supervision and control of the authorising officer. This does not apply to functions delegated to the officers acting in the statutory capacity of the Council's Chief Finance Officer (s151 officer) or the Monitoring Officer. These functions may only otherwise be exercised by the Assistant Director for Finance or Deputy Monitoring Officer as named in writing by the post holder.

2.04 Functions delegated by reference to job titles or posts which have changed will continue in force and shall be exercised by officers whose duties include or most closely correspond to the duties of the post originally referred to.

2.05 Where a Director's post is vacant, or the officer is absent or otherwise unable to act, and no officer has been appointed in an 'acting capacity', any functions delegated may be exercised by the Director whose duties include or most closely correspond to the function in question; save in relation to the Council's Chief Finance Officer (s151 officer) or the Monitoring Officer where functions may only be exercised in accordance with arrangements that have been authorised in writing by the post holder.

2.06 Any reference to legislation in this scheme shall include any act, statutory instrument or subordinate legislation by which it is applied, extended, amended, consolidated, repealed or replaced.

2.07 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, the Leader, relevant Cabinet Member or to a Committee of the Council.

2.08 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 coordinate the actions of some or all London local authorities.

3. Requirements to record and report on decisions taken under the Officer Scheme of Delegation

3.01 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 area of responsibility which records any decisions made under delegated powers. Written statements of officers' exercise of delegated powers must be completed and where appropriate published and made available for public inspection at the Civic Centre and on the Council's website.

3.02 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 as provided for at paragraph 5 below. 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.

3.03 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 <u>all decisions taken under officers' delegated powers</u>. Decisions of particular significance shall be reported individually.

3.04 In paragraph 3.03 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.

3.05 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.

4. General Limitations:

4.01 This scheme does not delegate to officers:

(a) Any matter reserved that is reserved to Members - either the Executive or the Full Council or one of their Committees or Sub Committees and as listed in Part Three Sections B – D above. This includes key decisions; the making, changing or departure from Council policy and the setting of fees and charges;

(b) Any matter which by law may not be delegated to an officer

4.02 Officers shall not be authorised by virtue of these provisions 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 the Financial Regulations at Part 4 Section I.

5. Urgent decisions and Officer Powers:

5.01 Where action needs to be taken on any urgent matter between meetings of the Cabinet, or any Committee or Sub-Committee of the Cabinet or the Council and such action would not be authorised within these provisions, the following rules shall apply:

(a) in the case of executive functions, the Leader may take any executive decision in place of, or between meetings of, the Cabinet, including decisions that have become urgent, in accordance with the Access to Information Procedure Rules at Part 4 Section D of this Constitution. The Leader may also allocate any executive decision whether urgent or not to the Cabinet Member having the relevant portfolio responsibilities, or to a Committee of the Cabinet. The Protocol for Decision Making in Part 5 shall be followed

(b) in the case of non-executive functions, a report will be prepared so that the Director 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.

6. Responsibility for maintaining and updating the Scheme of Delegation

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 their service area 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 with respect to any Non-executive function before a report can be considered by full Council, amendments may be authorised by the Chief Executive, acting in consultation with the Chair of the Standards Committee. 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.

6.04 Amendments to the Scheme of Delegation with respect to any Executive function may be authorised at any time by the Leader or the Cabinet and will have immediate and continuing effect. Such amendments will be reported to the full Council but only for noting and inclusion within the Council's Constitution.

7. Protocol for Officers Taking Decisions under Delegated Powers

7.01 There is no prescribed form for officers 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 post title 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),

(e) the date the decision was taken.

(f) details of any alternatives considered and rejected by the officer taking the decision,

(g) details of any conflict of interest declared by any Cabinet Member who is consulted by the officer which relates to the decision, and

(h) in respect of any officer's declared conflict of interest, a note of dispensation granted by the Head of Paid Service.

7.02 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 service area

(i) any implications for other Council services outside the service area

(j) and any comments from other affected service areas

(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).

7.03 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.

7.04 The officer exercising delegated powers is responsible for ensuring that all decisions taken are properly recorded in accordance with the procedure for the relevant service area or function concerned. Each Director will keep their own central record of all delegated decisions taken within their constituent services.