

3.7 Limitations

3.7.1 This Scheme does not delegate to Officers:

- any matter reserved by law or by the Terms of Reference of the Council, the Executive, a Committee, or Sub-Committee, Board or Panel to the Council, Executive, or a Committee or Sub-Committee of the Council or the Executive;
- any matter which by law may not be delegated to an officer;
- any matter which is specifically excluded from delegation by this Scheme or by resolution of Council, the Executive, or a Committee or a Sub-Committee.

3.7.2 Officers may only exercise delegated powers in accordance with the:

- ~~policies, plans and programmes approved by or on behalf of the Council;~~
- ~~budget and policy framework and executive procedural rules;~~
- ~~officer employment procedural rules;~~
- ~~contract and financial procedural rules;~~
- ~~any statutory restrictions, statutory guidance/circulars or statutory code of practice.~~
 - The Budget and Policy Framework;
 - The approved Budget;
 - The relevant Procedure Rules set out in Part 4 of this Constitution;
 - Policies, plans and programmes that have been approved on or on behalf of the Council;
 - Any instructions given by the Chief Executive;
 - Any financial advice given by the Corporate Director, Resources;
 - Any legal advice given by the Corporate Director, Governance;
 - Any statutory codes of conduct or statutory guidance, and codes and protocols as may be approved by the Council or the Mayor and Executive; and

- All other parts of the Constitution (including article 13 “Decision Making”).

3.7.3 In exercising delegated powers, officers shall act only within the revenue and capital budgets for the relevant service as approved by the Council, subject to any variation thereof which is permitted by the Council’s contract and financial procedural rules.

3.8 Delegated Decision-Making - General Principles

3.8.1 In exercising any delegated function, officers shall have regard to the requirement to comply with the limitations set out in paragraph 3.7.2 above, and shall be responsible for undertaking any appropriate consultation with the Council's ~~Head of Paid Service~~ Chief Executive, Section 151 Officer or Monitoring Officer as appropriate.

3.8.2 Where any matter involves professional or technical considerations not within the sphere of competence of the Director or Authorised Officer concerned, ~~he/shes/he~~ shall consult with the appropriate head of profession or technical officer of the Council before authorising action. ~~Such constraints are kept to the absolute minimum necessary for internal check.~~

3.8.3 ~~The officers~~ Officers exercising ~~any delegated function such powers~~ shall take account of any previous decision of the Council on any relevant policies or procedures.

3.8.4 All decisions shall be taken in the name of, but not necessarily personally by, the officer(s) to whom the power is delegated. Arrangements shall be made for the recording of action taken pursuant to these powers.

3.8.5 ~~Decisions need to be taken as near to the point of service delivery as possible.~~

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3.8.6 ~~Managers and staff must have authority to act in line with their levels of responsibility within the organisation.~~

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3.8.7 ~~All existing and newly appointed managers and staff must be advised in writing of their personal levels of delegated authority by their Directorate (this can be by provision of copies of the relevant documentation).~~

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3.8.8 ~~Divisional Directors are responsible for and must ensure that this Scheme is fully implemented, monitored, maintained and regularly reviewed and any changes required are reported to the Corporate Director, Governance.~~

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3.8.9 ~~Directors and Divisional Directors may further delegate their powers under this Scheme to officers within their Directorate or withdraw powers but must ensure that any such is in writing and is subsequently included in the Directorate's scheme of delegations and the Monitoring Officer is notified in writing.~~

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3.8.10 ~~For the avoidance of doubt, functions delegated by reference to job titles or posts includes an officer appointed to a named post on an acting, interim or temporary basis.~~

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3.8.11 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.

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3.8.12 In the absence, for whatever reason, of an officer with delegated powers under this Scheme, his/her powers may be exercised by any post holder within his/her Directorate within a higher category or to any officer designated to perform the duties of the absent post holder.

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3.8.13 The Scheme will be superseded in any case where a Council or Mayoral decision expressly delegates any of the powers in this Scheme to a specific officer or officers whether for a single event, decision or transaction or permanently.

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3.8.14 Where an officer considers that in exercising a delegated power or duty a departure in policy, procedure or a significant change in financial practice is likely to be involved, he/she-s/he shall consult with the appropriate officer in paragraph 3.8.1 above, who shall, if necessary, refer the matter to the Mayor or Cabinet or appropriate Committee.

3.8.15 Where any function is delegated to an officer, that officer may choose not to exercise that function and may instead refer a matter to the Council, the Mayor, Cabinet or relevant Committee as appropriate with the agreement of the appropriate Chief Officer. The criteria that officers may have to consider when determining whether to exercise a function could include-

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- Whether the decision may incur a significant social, economic or environmental risk.
- The likely extent of the impact of the decision both within and outside of the borough.
- Whether the decision is likely to be a matter of political controversy.
- The extent to which the decision is likely to result in substantial public interest.

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3.8.16 The Mayor in Cabinet or Committees may reserve to themselves decisions delegated to officers, by giving notice to the officer holding the delegated power or to the Chief Executive.

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3.8.17 For the avoidance of doubt, references in the Scheme to any statute, statutory instrument, regulation, rule, circular, agency or other agreement or any such matter in respect of which a power or duty is delegated shall be deemed to include any modification or re-enactment of the same as may be made from time to time.

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3.8.18 A Chief Officer may extend or withdraw delegations as s/he considers appropriate, subject to notification to the Monitoring Officer who will ensure publication in this Constitution in due course.

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