

### **3.5 The Chief Executive and Chief Officers**

- 3.5.1** The Chief Executive and Chief Officers are authorised to make decisions relating to any executive function carried out by services under their management other than taking “key decisions” as defined by Article 13 of this Constitution which are the responsibility of the Mayor or Executive itself, unless specifically delegated by the Mayor or Executive to an Executive Sub-Committee or a Chief Officer.
- 3.5.2** The Chief Executive and Chief Officers are authorised to make decisions relating to any Council function carried out by services under their management other than those referred to in the terms of reference of the Council or any Council Committee or Sub-Committee unless the Council or that Committee or Sub-Committee specifically delegates it to the officer concerned.
- 3.5.3** The Chief Executive and Chief Officers may delegate decisions or functions for which they are responsible to one or more officers within their directorate provided that they maintain a Directorate Scheme of Management which is notified to the Monitoring Officer and published in Part 8 of this Constitution in due course.
- 3.5.4** Any officer taking a decision on an executive function under delegated authority must ensure that the Mayor and/or any relevant Member of the Executive is consulted on matters of a controversial nature and, where appropriate, these matters should be referred to the Executive for decision.
- 3.5.5** The Chief Executive may exercise any functions delegated to other officers and may delegate decisions or functions to one or more officers in any of the Council's Directorates, save where prohibited by law.

## **3.6 Scheme of Management**

### **Introduction**

- 3.6.1** This Scheme delegates certain powers and duties of the Council to Officers under Section 101 of the Local Government Act 1972 and all other powers enabling such delegation. It is adopted with the intent that it should lead to a streamlining and simplification of the decision-making processes of the Council and accordingly it should be interpreted widely rather than narrowly.
- 3.6.2** The Scheme delegates to Chief Officers and other Authorised Officers the powers and duties necessary for the discharge of the Council's functions within the broad functional description set out, together with the specific delegations therein, and should be taken to include powers and duties within those descriptions under all present and future legislation, and all powers incidental to that legislation including the application of the incidental powers under Section 111 of the Local Government Act 1972, including the power to affix the Common Seal of the Council.
- 3.6.3** An Officer may decline to exercise delegated powers and instead report to the Mayor, Cabinet or appropriate Committee.
- 3.6.4** For the purpose of this Scheme "Authorised Officer" means an Officer who is specified under this Scheme as having the authority to exercise delegated powers and duties on behalf of the Council.

### **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, Sub-Committee, Board or Panel 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, a Committee or a Sub-Committee.

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

- 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 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, s/he shall consult with the appropriate head of profession or technical officer of the Council before authorising action.
- 3.8.3** Officers exercising any delegated function 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.
- 3.8.6** Managers and staff must have authority to act in line with their levels of responsibility within the organisation.
- 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).
- 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.
- 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.
- 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.
- 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.

- 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.
- 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.
- 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, 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 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-
- 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.
- 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.
- 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.
- 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.

### **3.9. Arrangement for Scheme of Management**

**3.9.1** 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.

**3.9.2** The Scheme of Management is in two parts as follows:-

Part A – Corporate Delegations. These are set out at Part 8.1 of this Constitution and cover a general range of functions which apply to all the Council’s Directorates. The Corporate Delegations authorise all officers of the appropriate seniority to exercise the functions specified.

Part B – Directorate Delegations. These are set out at Part 8.2 of this Constitution and apply to the particular functions undertaken by each Directorate. The delegations extend to the holders of the specified posts which have been determined by the Director having regard to the requirements of the particular functions and the way in which the service is delivered.

### **3.10 Proper Officers and Statutory Appointments**

- 3.10.1** In this Constitution the posts set out below shall be the designated Statutory and Proper Officer for the Council and those posts shall undertake the specific responsibilities attached to the role of the specific Statutory and Proper Officer.
- 3.10.2** In the event of any Officers mentioned below being for any reason unable to act or of any of their posts being vacant, the Chief Executive or in his/her absence, the Corporate Director of Governance, and in the absence of both, the Section 151 Officer, shall nominate an Officer to act in their stead.
- 3.10.3** Until the Council decides otherwise the Chief Executive is appointed the Proper Officer for the purpose of all statutory provisions, whether existing or future, in respect of which no express Proper Officer appointment has, for the time being, been made.

#### **Statutory Officers**

<b>LEGISLATION</b>		<b>DESIGNATION</b>	<b>POST</b>
<b>1.</b>	Section 4, Local Government and Housing Act 1989	Head of Paid Service	Chief Executive
<b>2.</b>	Section 5, Local Government and Housing Act 1989	Monitoring Officer	Corporate Director, Governance
<b>3.</b>	Section 151 Local Government Act 1972 (and section 114 of the Local Government Finance Act 1988)	Chief Finance Officer	Corporate Director, Resources
<b>4.</b>	Section 6 Local Authority Social Services Act 1970	Director of Adult Social Services	Corporate Director, Health, Adults and Community
<b>5.</b>	Section 18 Children Act 2004	Director of Children's Services	Corporate Director, Children's
<b>6.</b>	Section 30 Health and Social Care Act 2012	Director of Public Health	Director, Public Health
<b>7.</b>	Section 9FB Local Government Act 2000	Scrutiny Officer	Divisional Director Policy and Strategy

## Proper Officers

NO.	STATUTE & FUNCTION	OFFICER
<b>National Assistance Act 1948 and National Assistance (Amendment) Act 1951</b>		
1.	Proper officer to seek an order for removal of persons into care	Corporate Director, Health, Adults and Community
<b>Registration Service Act 1953</b>		
2.	Sections 9(1) and (2), 13(2)h and (3)b and 20 (b) - Proper officer for Births, Deaths and Marriages	Corporate Director, Governance
<b>Local Government Act 1972</b>		
3.	Section 83(1) – The officer to whom a person elected to the office of the Mayor or a Councillor shall deliver a declaration of acceptance of office on the prescribed form	Chief Executive
4	Section 84 – The officer to whom written notice of resignation of office shall be delivered	Chief Executive
5.	Section 86 - To declare any vacancy in any office under the Section	Chief Executive
6.	Section 88(2) - The officer who may call a Council meeting for the election to the vacant office of Chair of Council	Chief Executive
7.	Section 89(1)(b) - The officer to whom notice in writing of a casual vacancy occurring in the office of Councillor may be given by two local government electors for the borough	Chief Executive
8.	Section 100B(2) - The officer authorised to exclude from committees, sub committees, Council or Executive meeting agendas any information to be dealt with in a meeting from which the public are likely to be excluded	Corporate Director, Governance
9.	Section 100B(7)(c) - The officer to supply to any newspaper copies of documents supplied to Members of committees, sub-committees, Council or Executive meetings in connection with an item for consideration	Corporate Director, Governance
10.	Section 100C(2) - The officer to prepare a written summary of proceedings of committees, sub-committees, Council or the Executive from which the public were excluded	Corporate Director, Governance



NO.	STATUTE & FUNCTION	OFFICER
<b>Local Government Act 1972</b>		
11.	Section 100D(1)(a) - The officer to prepare a list of background papers for reports considered by committees, sub-committees, Council or the Executive	Corporate Director, Governance
12.	Section 100D(5) – The Officer to determine which documents constitute background papers and section 100H - ability to charge for the provision of such documents	Corporate Director, Governance
13.	Section 100F(2) – The officer to decide which documents are not, by virtue of containing exempt information, required to be open to inspection	Corporate Director, Governance
14.	Section 100G - To maintain a register of the names and addresses of Members and membership of committees, lists of delegations and the like	Corporate Director, Governance
15.	Section 115 – The officer to whom money properly due from officers shall be paid	Corporate Director, Resources
16.	Section 137A – The officer to receive statements in connection with the provision of financial assistance	Corporate Director, Resources
17.	Section 146 – The officer to make statutory declarations and issue any certificate with regard to securities held by local authority companies	Corporate Director, Resources
18.	Section 223 Authorising officers to attend court and appear on behalf of the Council under Local Government Act 1972 and the County Courts Act 1984	Corporate Director, Governance
19.	Section 225(1) – The officer to receive and retain statutory documents on behalf of the Authority	Corporate Director, Governance
20.	Section 229(5) – The officer to certify copies of documents	Corporate Director, Governance
21.	Section 233 – The officer to receive documents required to be served on the Authority	Corporate Director, Governance

NO.	STATUTE & FUNCTION	OFFICER
<b>Local Government Act 1972</b>		
22.	Section 234(1) and (2) – The officer to authenticate documents on behalf of the Authority	Corporate Director, Governance
23.	Section 238 – The officer to certify printed copies of bylaws	Corporate Director, Governance
24.	Section 248 – The officer responsible for the keeping of the roll of freemen	Corporate Director, Governance
25.	Schedule 12 (paragraphs 4(2)(b)) – The officer responsible for signing summonses to attend meetings	Chief Executive
26.	Schedule 12 (paragraphs 4(3)) – The officer responsible for the receipt of notices regarding address to which summons to meetings is to be sent	Corporate Director, Governance
27.	Schedule 14 (paragraph 25(7)) – The officer responsible for the certification of true copies of resolutions	Corporate Director, Governance
<b>Local Government Act 1974</b>		
28.	Section 30(5) – The officer responsible for giving notice of Local Government Ombudsman Report	Corporate Director, Governance
<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
29.	Section 41 - The officer to certify as evidence of resolutions of proceedings	Corporate Director, Governance
<b>Highways Act 1980</b>		
30.	Section 59(1) – The officer to certify that extraordinary expenses have been incurred in maintaining the highway by reason of damage caused by excessive weight or extraordinary damage	Divisional Director Public Realm
31.	Section 205(3) – The officer to prepare a specification of the street works referred to in the resolution, with any necessary plans and sections, an estimate of the probable expenses of the works, and a provisional apportionment apportioning the estimated expenses between the premises liable to be charged with them under the private street works code	Divisional Director Public Realm

NO.	STATUTE & FUNCTION	OFFICER
<b>Highways Act 1980</b>		
32.	Section 205(5) – The officer to certify copies of resolution and approved documents	Divisional Director Public Realm
33.	Section 210(2) – The officer to certify amendments to estimated costs and provisional apportionment of costs under the private street works code	Divisional Director Public Realm
34.	Section 211(1) – The officer to make the final apportionment of costs under the private street works code	Divisional Director Public Realm
35.	Section 216(2) and (3) – The officer to settle the proportion of the amount of costs under the private street works code in respect of railway undertakers or canal undertakers	Divisional Director Public Realm
36.	Section 259 – The officer to issue notice requiring removal of materials from non-maintainable streets in which works are due to take place	Divisional Director Public Realm
37.	Section 321 – The officer to authenticate notices, consents, approvals, orders, demands, licenses, certificates or other documents	Divisional Director Public Realm
38.	Schedule 9 (paragraphs 4) – The officer responsible for signing plans showing proposed prescribed improvement or building lines	Divisional Director Public Realm
<b>Representation of the People Act 1983</b>		
39.	Section 8 – Person appointed as Registration Officer	Chief Executive
40.	Section 28 – Person appointed as Acting Returning Officer	Chief Executive
41.	Section 35 – Person appointed as Returning Officer	Chief Executive
42.	Section 37(7)(b) – The officer to receive declarations and give public notice of election agents' appointments	Chief Executive
43.	Section 131(1) – The officer to provide accommodation for holding election court	Chief Executive

NO.	STATUTE & FUNCTION	OFFICER
<b>Building Act 1984</b>		
44.	Section 93 – The officer to sign any notice, order or other document which the Council is authorised or required to give, make or issue under this Act, to authorise any officer in writing to do so, and to authenticate any such document	Divisional Director Planning and Building Control
<b>Public Health (Control of Disease) Act 1984</b>		
45.	<b>Section 45F(2)(a) and (b) and 45P(2) – The proper officer for the purposes of the Health Protection (Notification) Regulations 2010</b>	Divisional Director Public Realm
<b>Weights and Measures Act 1985</b>		
46.	Section 72(1) – Person appointed as Chief Inspector of Weights and Measures	Divisional Director Public Realm
<b>Local Government Finance Act 1988</b>		
47.	Section 116(1) – The officer to notify the external auditor of a meeting under the Act to consider a report from the Chief Finance Officer	Divisional Director Risk Management
<b>Local Government and Housing Act 1989</b>		
48.	Section 2(4) – The officer to hold on deposit the Council's list of politically restricted posts	Corporate Director, Governance
49.	Section 3A – The officer who, in consultation with the Monitoring Officer, determines applications for exemption from political restriction or for designation of posts as politically restricted	Chief Executive (in consultation with the Monitoring Officer)
50.	Section 15 to 17 (and Regulations made thereunder) – the officer to receive and give notices relating to the membership of political groups	Chief Executive
<b>Freedom of Information Act 2000</b>		
51.	Section 36 – The 'qualified person'	Corporate Director, Governance

NO.	STATUTE & FUNCTION	OFFICER
<b>Local Government Act 2000</b>		
<b>52.</b>	Section 9G and 9GA(4) – The proper officer for the purposes of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012	Corporate Director, Governance
<b>Regulation of Investigatory Powers Act 2000</b>		
<b>53.</b>	Part I, Chapter II (acquisition and disclosure of communications data) and Part II (directed surveillance and use of covert human intelligence source) – The officers who are designated to grant authorisation	Divisional Director Public Realm

### **3.11 Advisory Bodies and Working Parties**

- 3.11.1** The Mayor and/or the Chief Executive may from time to time establish working parties or advisory bodies which include in their membership Councillors and/or officers and/or representatives from partner organisations or the local community. These are not constituted as Committees or Sub Committees of the Council and are not authorised to make decisions on behalf of the Council. A list of such bodies is maintained and updated by the Corporate Director, Governance.

### **3.12 Specific Delegations**

- 3.12.1** The Corporate Director, Place (or any officer authorised by her/him) has the authority to consider and determine any applications for licenses not specifically reserved to the Licensing Committee by these terms of reference and all applications for licences where no objections have been received.
- 3.12.2** The Corporate Director, Governance has authority to make or amend an appointment to a position on a committee or panel of the Council in accordance with the nomination by a political group, where the position has previously been allocated by the Council to that Group. Any nomination received by the Corporate Director, Governance in accordance with the above provision after 5.00 p.m. on any day will take effect no earlier than 9.00 a.m. on the next working day.