

## **PART 3 OF THE CONSTITUTION**

### **8. Delegation of Council Functions and Executive Functions to Officers**

#### **1. Introduction**

- 1.1 This scheme has been adopted by Bolsover District Council and North East Derbyshire District Council and sets out the extent to which the powers and duties of the Councils are delegated to officers under the Local Government Act 1972, the Local Government Act 2000 and all other powers enabling delegation to officers. It is adopted with the intention of giving a streamlined, clear and simple decision-making process. It should be interpreted widely.
- 1.2 Under this scheme officers must keep Members properly informed of action arising within the scope of these delegations. Officers must liaise closely with the relevant Portfolio Holder on Executive Functions and the relevant Chairman of the regulatory committee when the matter falls within the remit of that committee.
- 1.3 All references to legislation shall be deemed to include any subsequent amendments to such legislation.
- 1.4 Officers shall consult the local Ward Member(s) when they exercise any delegated powers specifically affecting their ward and when the matter is likely to be politically sensitive or contentious unless legal reasons prevent this. Officers must take account of the views of the relevant Ward Member(s) before exercising their delegated power.
- 1.5 Under section 101 of the Local Government Act 1972 the Council may authorise an officer of the authority to commission and monitor work for and on behalf of the Council by people who are not officers of the authority and such people will be bound by this scheme, and the obligations contained in it, at all times when engaged on Council business (for example Environmental Health).
- 1.6 References to powers of 'the Council' include functions of the executive.
- 1.7 Any reference to a function shall be deemed to include a reference to all statutory powers relating to that function and shall be deemed to include authority to exercise all such powers.
- 1.8 All delegations are intended to be cumulative. Each delegation may be read on its own unless it is specifically expressed to be subject to another.
- 1.9 All delegations to officers are subject to:
- Statutory requirements
  - Contract Procedure Rules

- Financial Regulations/Finance Rules
- Consideration of the policies and plans of the relevant Council
- The Employee Code of Conduct and adopted protocols
- The requirements of the Strategic Alliance Management Team in relation to the overall management and co-ordination of the Council's affairs
- Any financial limits set out in any budget agreed by Council and in accordance with Financial, Contract and Property Procedure Rules
- The Budget and Policy Framework set by Council and any other Council policy having regard to any report by the Head of Paid Service, the Monitoring Officer or the Officer designated under section 151 of the Local Government Act 1972
- Any provision contained within this Constitution

1.10 Where an officer has delegated powers, the Council or the Cabinet/Executive or a Committee (as appropriate) can still exercise that power in a particular case if it considers it appropriate to do so. Equally it is always open to an Officer not to exercise delegated powers but to refer the matter up as appropriate.

1.11 A number of the Directors and Heads of Service are joint posts within the Strategic Alliance. However, the word "Joint" has been omitted from the scheme descriptions.

Where the Delegation Scheme refers to Heads of Service, this also includes Assistant Directors

## **2. Exclusions**

2.1 This Scheme does not delegate:

- Any matter which by law may not be delegated to an officer
- Any matter which is specifically excluded from delegation by this scheme, by a decision of the Council, the Cabinet/Executive or a Committee or Sub-Committee.

## **3. Authorisations to other Officers**

3.1 Officers with delegated powers may in writing authorise another officer or officers to exercise those powers. Such authorisations may be subject to limitations and conditions. The officer with the delegated powers must keep a register of all authorisations granted. Copies must also be sent to the Governance Manager.

## **4. Reserve Delegations**

4.1 The delegated powers held by a post may be exercised by the line manager of that post (or by their line manager) if:

- that post is vacant
- the post-holder is not at work for any reason

## **5. Consultation**

- 5.1 Officers shall consult as appropriate and have due regard to the advice given. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation then the person with the delegated power must consult someone else whom he/she considers to be an appropriate substitute. In particular, consultation must take place with legal, finance and human resources as appropriate.

## **6. Restriction on delegations**

- 6.1 Each delegation to a Head of Service is subject to a limitation that it shall not be exercised if the Head of Paid Service, or a Director, or the Monitoring Officer, or Section 151 Officer, has given a direction to that effect.
- 6.2 The Head of Paid Service, or a Director, may exercise any delegated power possessed by a Head of Service whilst a direction is in force with respect to that delegation.
- 6.3 In the absence of a Director, a Head of Service within that Directorate may exercise any delegated power possessed by that Director.
- 6.4 An officer in a formal 'Acting-Up' arrangement may utilise the powers delegated to the post that they are covering for the specified period of that contractual agreement.
- 6.5 Delegated powers may only be exercised within approved budgets, unless a virement is permitted by the Finance Rules. The use of the Invest to Save Reserve (NEDDC) or the Transformation Reserve (BDC) is restricted to the Section 151 Officer.

## **7. Transfer of Functions**

- 7.1 Where the name of a post is changed, or its relevant functions become vested in a different post, any delegated powers possessed by the post shall be retained by the renamed post or transferred to the different post as the case may be. This includes any delegated powers vested in a post by resolution of the Council, the Cabinet/Executive or a Committee/Sub Committee.
- 7.2 Where a service is restructured, the Head of Paid Service shall have authority to re-allocate the delegated powers to other posts and shall give notice of this to the Monitoring Officer.

## **8. Proper Officers**

- 8.1 In addition to the specific powers delegated to Chief Officers, local government legislation specifies that certain officers must have responsibility for a number of specific functions as set out in the various acts of parliament. Each officer with such responsibility is known as the

“Proper Officer” in relation to that task. The list of Proper Officers is approved by the Council and is attached at Appendix One.

- 8.2 The Council is also required to appoint certain officers known as Statutory Officers to take responsibility for functions specified in local authority legislation. These functions are in addition to the Scheme of Delegation and are set out below.

## **9. General powers delegated to all Directors and Heads of Service**

- 9.1 To exercise within approved budgets all matters of day to day administration and operational management of the services and functions for which they are responsible.
- 9.2 To take all necessary action to achieve and implement the objectives and actions set out in approved policies, strategies, plans and decisions of Council or committees.
- 9.3 To sign licenses and notices relevant to their service areas subject to consultation with the Monitoring Officer.
- 9.4 To make decisions on any objection submitted which relates to a proposal, application or other matter within their service area, subject to Committee Terms of Reference.
- 9.5 Service of any statutory notices affecting their service area subject to consultation with the Monitoring Officer where appropriate.
- 9.6 To exercise the Council’s powers to enter land and premises (and to authorise others to enter land and premises) for the purposes of any of the Council’s functions which the officer has responsibility for enforcing or investigating.
- 9.7 To instruct the Council’s Legal Service with respect to any legal matter concerning their department or services.
- 9.8 To exercise the Council’s power to publish information about its services including deciding the content of any publication.
- 9.9 To decide the terms upon which services will be provided to the public (which may include providing services on different terms to different individuals or classes of individuals).
- 9.10 To exclude people from Council premises where they consider this to be warranted in the interests of health and safety or for the maintenance of order.
- 9.11 To deal with the following employment matters in accordance with Council procedures:

- 9.11.1 The employment of all employees below Head of Service level including determining the most appropriate means of recruitment and selection;
  - 9.11.2 Formulation, review and revision of person specifications and job descriptions for posts within their service areas;
  - 9.11.3 Application of conditions of service including the authorisation of leave of absence, purchase of annual leave (Bolsover District Council only) and payment of honoraria;
  - 9.11.4 Suspension or dismissal of employees below Head of Service level;
  - 9.11.5 Re-grading of posts below Head of Service level following job evaluation;
  - 9.11.6 Determination of job sharing applications;
  - 9.11.7 Waive any part of the notice required to be given by an employee to terminate employment.
- 9.12 To authorise payments for overtime in accordance with Council procedures.
- 9.13 To deal with procurement matters acting at all times within the Council's Financial and Contract Procedure Rules.
- 9.14 To acquire, dispose of, grant and obtain rights in land and premises on such terms and conditions as considered appropriate where expenditure is within approved budgets.
- 9.15 To acquire, dispose of, grant and obtain rights in vehicles and other equipment and property where expenditure is within approved budgets.
- 9.16 To commission goods, services and works within approved budgets.
- 9.17 To deal with media enquiries and press releases in conjunction with the Communications Manager/Officer who will contact the relevant Members.
- 9.18 To represent the views of the Council in responding to consultations with the Council by any outside body where it is expedient to do so or where the period for a response does not allow the consultation paper to be reported to Members, subject to contacting the relevant Portfolio Holder or the Leader and Deputy Leader where the matter is politically contentious and where appropriate reporting to Executive/Cabinet/ Council subsequently.
- 9.19 To work with partners to achieve and implement the objectives and actions set out in the approved Corporate Plan, Service Plans, Business Plans, policies, strategies or other plans.

- 9.20 To carry out any duties or responsibilities as contained with the Financial Rules (NEDDC) or Financial Regulations (BDC).
- 9.21 To carry out any functions contained within section 2 – Council Functions and section 3 – Local Choice Functions of the Functions Scheme (NEDDC).
- 9.22 To make amendments to Council policy, subject to consultation with the Monitoring Officer, in order to:
- i) reflect changes in the law, government or regulators' guidance, and other Council policies; or
  - j) correct obvious, technical or clerical errors and to take account of changes of any names or titles.