

Scheme of Delegation

General Principles

March 2011

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Purpose

To help officers understand and interpret the Council's scheme of delegations by providing for a set of general rules which will help with consistency when dealing with the schemes of delegation.

Related Policies and Documents

All parts of the Officers scheme of delegation
General Principle Service Schemes of Authorisations

Who is governed by this policy?

The scheme of delegations will apply to all permanent, contract and temporary staff working for the Council.

Executive Summary

All delegations are subject to compliance with the law, the Council's Constitution, its Procurement Code, Financial Regulations and other relevant policies and procedures. All delegations may be exercised by the Chief Executive as well as those posts set out in this Scheme of Delegation. The rules can be a bit complex and so this part of the scheme of delegation seeks to explain some general principles which should help interpret the scheme of delegations and list of authorisations.

The Council's functions are delegated to Committees of the Council, the Mayor and Executive or Officers. There is a hierarchy of delegations from the Full Council or the Mayor and each of them agree an officer's scheme of delegations which set out what officers are delegated what functions. Functions are generally delegated to the top two tiers of officers and those officers then have the authority to authorise others to act on their behalf. Each Service maintains a list of officers with the authority to carry out functions on behalf of the Executive Director and Divisional Directors for their service area. Each service also keeps a list of what officers operate at which "tier" within the organisation (as the general delegations relating to common functions are allocated according to tier) and also what officers have what authority to authorise financial payments.

Although powers maybe delegated to officers, there is a requirement to consult local ward councillors and community lead councillors if the decision you are making has a direct impact on a local community. Please consult Democratic Services for advice. In addition, please be aware that at the very least local ward councillors should be kept aware of any decision made and implemented under delegated powers that affects members of the

community in their ward and this would normally be through the ward based bulletin.

General Principles

1. This Scheme of Officer Delegations, made in accordance with **“Part 3 – Responsibility for Functions”** of the Authority’s Constitution, shall be interpreted and applied in accordance with these General Principles.
2. These General Principles shall apply to all parts of this Scheme of Officer Delegations including, for the sake of clarification, the General Management Delegations, any Service Schemes of Delegations including delegations of statutory or non-statutory powers/functions (whether or not they are referred to or listed in “Part 3 – Responsibility for Functions” of the Authority’s Constitution), or any other various or miscellaneous delegations.
3. For the avoidance of doubt, any matter not specifically reserved to the Mayor / Executive, the Council or a Committee or Sub-Committee of Council shall be within the delegated authority of the Chief Officer whose portfolio, as set out in Article 12 of the Constitution, includes responsibility for that function. Article 12 sets out the various portfolios of Chief Officers. In the absence in this Scheme of Delegation of an express authority to act, the relevant Chief Officer shall be entitled to discharge all those functions falling generally within his/her portfolio or discharged by his/her Directorate unless specifically reserved to Council, a Committee of the Council or the Mayor.
4. All officers with specific delegations conferred on them in accordance with Section 4 of this scheme of delegation may authorise officers within their Directorates to act on their behalf.
5. Each Executive Director shall maintain a list of officers duly authorised to act on behalf of officers with delegated powers for these purposes.
6. Save where the urgency provisions require otherwise any function specifically reserved to the Council or a Committee of the Council, by virtue of Article 8 of the Constitution (Regulatory committees) and/or Part 3 (Responsibility for Functions), shall not be discharged by an officer unless specifically delegated to him/her by the Council or the relevant Committee.
7. Save where the urgency provisions require otherwise any function specifically reserved to the Mayor under the Mayor’s Scheme of Delegation shall not be discharged by an officer unless specifically delegated to him/her by the Mayor / Executive or unless authorised to do so on their behalf by an officer that has the relevant delegation.
8. In the event of an urgent matter requiring an immediate decision in circumstances where the relevant Executive, Council or Committee cannot be convened the Chief Executive shall be empowered to take the decision unless prohibited from doing so by law and Executive Directors shall be entitled to take such urgent decisions requiring immediate decision in like circumstances, within their portfolio as described in Article 12 of the Council’s Constitution. The matter must be urgent on grounds of health and safety or legal and financial risk. The decision must be reported to the next convenient meeting of the relevant body. Where practicable the CEO or Executive Director shall consult with the Mayor, Deputy Mayor or Chair of Committee as relevant.

9. The Chief Executive shall be entitled to nominate one or more of the Executive Directors to act as his/her deputy in all or some of his/her functions. Such deputy including any restrictions on the deputising power shall be notified to the Monitoring Officer.

Definitions

“Authorised Officer” means any officer who has been authorised by a Chief Officer or Deputy Chief Officer to discharge any function or power on his/her behalf and whose name is on the list of officers authorised to act which is maintained by each Chief and Deputy Chief Officer.

“Authority” means the London Borough of Newham.

“Chief Officer” and “Deputy Chief Officer” have the meanings assigned in Part 4.8 of the Constitution.

“Delegated Officer or officer with delegated power” shall mean the officers named in this officers scheme of delegation to carry out the functions specified

“Directorate” or “Portfolio” means the staff, services and functions for which a Chief Officer is responsible.

“Division” means the staff, services and functions for which a Deputy Chief Officer is responsible.

“Service” or “Section” means the staff, services and functions for which an authorised officer is responsible.

“Function” or “power” means all the relevant functions, powers and duties of the Authority, whether under any specific legislation identified in the scheme including all functions, powers and duties contained in that specific legislation, as the case may be.

Any reference to officers being delegated to carry out or perform any functions in this scheme shall be deemed to include a reference to performing any other functions, even if not specifically referred to, which are necessary or incidental to, or required to facilitate or be conducive to the performance of the function in question.

- (A) The Officer with specific delegation to carry out functions under the scheme of delegation shall retain responsibility and accountability for decisions made on their behalf by an Authorised Officer.
- (B) Where a function or power falls to be discharged by an officer, a more senior post-holder in the Directorate, Division or Service may also discharge that function or power.
- (C) In addition to the authority specifically delegated to him/her in relation to the various staff, services and functions in the Chief Executive’s Directorate, the Chief Executive is also authorised to discharge any function or power delegated to any officer in any other directorate (unless prohibited by law from doing

so) where the officer delegated is unable to act.

- (D) In the absence of any specific delegation in this Scheme of Delegation the relevant Chief Officer or anyone authorised by him/her to act on his/her behalf shall be entitled to carry out any function within his/her remit (as set out in general terms in Article 12 of the Council's Constitution) unless specifically reserved to the Executive through the Mayor's Scheme of Delegation or falling within the terms of reference of Council, a Committee or Sub-committee.
- (E) Subject to any specific restriction in writing, a function or power which may be discharged by an Delegated or Authorised Officer, may also be discharged by any person(s) formally "acting-up" into that post or "interim" post holders.
- (F) Subject to any specific restriction in writing, a function or power which may be discharged by an Delegated or Authorised Officer, may also be discharged by any person who is deputising (whether on a full, part time or on an absence basis) for that post. Such deputising arrangements must be in writing or apparent from the relevant job title or job description.
- (G) Subject to any specific restriction in writing, a function or power which may be discharged by an Delegated or Authorised Officer, may also be discharged by any person who holds a post which is a successor post to that of the original Delegated or Authorised Officer following any reorganisation, restructure or similar process.
- (H) Nothing in this scheme shall permit officers to make any Key Decisions (as defined in Article 13 of the Constitution) unless the relevant rules relating to Key Decisions are complied with.
- (I) Only the Chief Executive and Executive Directors (Chief Officers) and Divisional Directors (Deputy Chief Officers) may authorise other officers to discharge any function or power on their behalf other than as provided for in this scheme of delegation.
- (J) Any reference in this Scheme to any legislation or to any Council procedure or rule shall be deemed to include a reference to any successor legislation, procedure or rule (as the case may be) as may be introduced or enacted by way of substitution, revision or amendment.
- (K) Any decision made by a Delegated or Authorised Officer under this Scheme shall be supported by relevant documentary records. All decisions shall be made in accordance with any relevant procedure or policy in place at the time.
- (L) Except in relation to any function or power delegated to the Chief Executive or Executive Director of Resources or those officers within the Chief Executive's or Resources Directorates who by the very nature of their role have to make decisions across all directorates (principally Finance, Legal and Human Resources) all functions and/or powers delegated to officers under this scheme shall only be exercisable by the Delegated or Authorised Officer in relation to the Directorate within which he/she works or for which he/she is responsible.
- (M) No officer shall have greater delegation or authority in relation to any function than an officer who is more senior to him/her within his/her Directorate. Unless they are specifically permitted to deputise under (F) above.
- (N) A Divisional Director (Deputy Chief Officer) may only exercise his/her delegated authority within his/her Division/Area. However, a Divisional Director

may, in the absence of another Divisional Director in the Directorate in which he/she works, exercise that absent Divisional Director's delegated authority if the matter cannot wait, it is not practicable to refer the matter to the relevant Executive Director (Chief Officer) and there are no specific restrictions.

- (O) All Authorised Officers may only exercise their delegated authority within their Service, Sections or Teams. However, he/she may, in the absence of another officer at the same level within the same Division, exercise that Officer's authority if the matter cannot wait, it is not practicable to refer the matter to the relevant Divisional Director or Executive Director (Chief or Deputy Chief Officer) to carry out the delegation and there are no specific restrictions.
- (P) The Monitoring Officer is responsible for maintaining this Scheme of Officer Delegations and copies of the lists of all authorised officers as agreed from time to time by Chief and Deputy Chief Officers and shall ensure copies are available on the Council's Internet.
- (Q) Chief and Deputy Chief Officers are responsible for maintaining the up to date list of authorisations to officers permitted to carry out their delegations on their behalf for the services within their portfolios. All changes must be notified to the Monitoring Officer within 25 days and he/she will arrange for the central scheme to be amended.
- (R) If the Authority acquires a new function it may be necessary for this to be reported to the Mayor/Executive or the Council so that a decision can be taken on any new delegations to officers. However, in the absence of such a decision, the Chief Officer with responsibility for the relevant service shall be deemed to have full delegated authority to discharge the function on the Authority's behalf in accordance with paragraph 3 above of the General Principles unless the Function is reserved to the Executive (Mayor/Cabinet) or a Committee in the Constitution.

Influential Councillor Scheme

The Mayor has developed a scheme to facilitate the involvement of local councillors in decision making that affects their locality. The Mayor and/or the Executive have not delegated their functions or responsibility for taking any decision to individual Members who are not part of the Executive. However in order to encourage local involvement the Mayor has indicated that he expects officers to consult with the local lead Member on all local issues before exercising their delegated authority. The decision remains the officer's decision and, in the event of any disagreement that cannot be resolved, the officer shall refer the matter by way of a report to Mayoral Proceedings for determination.

Likewise local lead Members should be consulted on or notified of other local issues which are not executive functions that affect their locality such as planning or licensing applications.

Officers must maintain a full record of all consultations with local lead Members. The full obligations to consult and method of consultation is set out in the Influential Councillor Scheme. The protocol on the operation of the influential Councillor Scheme can be found in Part 5 of the Constitution.

Key Decisions

Certain officer decisions will also be key decisions. This means they can only be made by the relevant officer where they appear in the Forward Plan, a written report is prepared and is published 5 clear days before the decision is taken. The decision must also be published.

The first type of Key Decisions are those which are likely to involve the Council incurring new expenditure or savings of more than £500,000. However these are largely reserved to the Mayor in any event.

The second type of decision which will be a key decision is where it's social impact (rather than or as well as its cost) warrants. This will be where the outcome of the decision will have a direct or indirect impact (good or bad) on the amenity of the locality or quality of service provided to a significant number of people working or living in the locality affected (i.e. 10% or more) or to more than one area where fewer people maybe affected but the affect is significant. Such decisions would include:

- Setting priorities for capital work
- Opening/closing a facility
- Major impact on transport
- Major impact on local or regional economy
- Major Environmental work
- Major changes to service delivery or points of delivery
- Changing opening hours when impact will be significant
- Criteria for awarding grants or awards
- Setting fees and charges where the numbers affected and the level of change warrants