

## **SCHEME OF DELEGATION**

### 1. Introduction

- 1.1 The Authority will meet to consider key decisions, as defined in the Forward Plan, and scrutiny issues with regard to delegated decisions, which have been called-in in accordance with the Procedure Rules and the provisions of this Scheme.
- 1.2 This Scheme delegates to specific Officers all the powers and duties of the Authority necessary for the discharge of the specified functions. Administrative Decisions, as defined by the Scheme, may be dealt with by the Officer. Executive Decisions are those decisions which do not fall within the definition of Administrative Decisions and are not key decisions. Executive decisions may be dealt with by the Officer, following consultation with the relevant Portfolio Holder and all the Members of the Authority, and subject to the scrutiny provisions identified in the Scheme.

### 2. Overall Limitations

- 2.1 This Scheme does not delegate to Officers:
- (a) any matter reserved by law, or by the Authority, to the Authority itself, or to a committee or sub-committee of the Authority;
  - (b) any matter which by law may not be delegated to an Officer;
  - (c) any key decision, as defined in the Authority's Forward Plan.
- 2.2 Officers may only exercise delegated powers in accordance with:
- (a) the established policies of the Authority;
  - (b) the budget approved by the Authority;
  - (c) the Authority's Procedure Rules, Contract Procedure Rules and Financial Procedure Rules;
  - (d) any statutory restrictions, guidance or codes of practice and guidelines given from time to time by the Authority.

- 2.3 In exercising delegated powers, Officers shall not incur expenditure, which is not provided for in the Authority's approved Capital and Revenue Budgets.

### 2.4 Sub-Delegation

This Scheme includes the power for Officers further to delegate any function which has been delegated by them under this Scheme to another Officer or to other Officers. Every such sub-delegation shall be in writing, setting out the terms and conditions upon which that function is to be performed and accountability for the performance of the sub-delegated function. The Officer

making such sub-delegation shall record the sub-delegation in a register maintained for the purpose by the Proper Officer.

- 2.5 In exercising any delegated function, Officers shall have regard to the requirement to comply with the restrictions set out in paragraph 2.2 above and shall be responsible for undertaking any appropriate consultation with the Authority's Statutory Officers before making any decision.
- 2.6 In exercising any delegated function, Officers shall have regard to any professional standards or operational policies of the Authority.
- 2.7 There are two types of decisions which may be taken by Officers under this scheme of delegation:
  - (a) Executive Decisions
  - (b) Administrative Decisions

### 3. Executive Decisions

#### 3.1 Consultation

- (a) Before taking any Executive decision, the Officer shall prepare a report, setting out
  - (i) the Officer preparing to take the decision;
  - (ii) the issue to be decided;
  - (iii) any restriction upon the publication of the report as if the decision were a decision falling to be made by a committee or sub-committee of the Authority in accordance with Sections 100 and 100A to 100K of the Local Government Act 1972;
  - (iv) any facts upon which any decision must be based;
  - (v) any legislative requirements;
  - (vi) any Authority policy relating to the issue;
  - (vii) any relevant national or regional guidance;
  - (viii) the alternative options available to the Officer;
  - (ix) the staffing and financial implications of the issue;
  - (x) any consultations undertaken; the view of any consultees;
  - (xi) any implications for any other areas of the Authority's activities;
  - (xii) the portfolio which the issue falls within;
  - (xiii) the Officer's proposed decision and the reasons supporting the Officer's proposed decision.

- (b) The Officer shall, following consultation with the relevant Portfolio Holder, send a copy of the report to:
  - (i) all Members of the Authority;
  - (ii) the Proper Officer, the Director, the Treasurer, the Solicitor.

### 3.2 Call-in

Two or more Members may object to the proposed decision, within 5 working days of receiving it, by notifying the Officer of their objection and requesting that it be referred to the next meeting of the Authority for determination.

If a Member has no objection to the proposed decision he will return the report to the Officer within 5 working days of receiving it.

### 3.3 Determination

Where no objection has been received from two Members within the timescale outlined above, the Officer may proceed to make a final decision as indicated in the report.

Where two Members have requested that the report be referred to a meeting of the Authority, the Officer shall no longer have the power to take the final decision. The Proper Officer shall include the report for decision to the next meeting of the Authority and the Officer's proposed decision shall form the recommendation to the Authority.

### 3.4 Urgent Decisions

Where an Officer is of the opinion that an Executive decision for which he/she is responsible should be made urgently in order to prevent or reduce the risk of damage to persons or property, or to the interests of the Authority, and that the urgency of the decision is such that it is not practicable to complete the Executive decision-making process set out above, the Officer shall

- (a) use his/her best endeavours, as far as the urgency of the matter permits, to consult those persons whom he/she would have been required to consult had the full Executive decision-making process been followed; and
- (b) have the full power to take that Executive decision, notwithstanding that the full procedure has not been followed;
- (c) as soon as practicable after taking the decision, ensure that a report set out as in paragraph 3.1(a) is prepared, setting out also the reasons for the urgency and the final decision which has been taken, and that report shall go to the next convenient meeting of the Authority for information.

**3.5 Recording of Executive Decisions**

Upon making an Executive decision, the Officer shall provide the Proper Officer with a written statement of the decision, signed by the Officer, within 2 working days of the date of the decision.

The Proper Officer shall publish all Executive decisions within 5 working days of the date of the decision and shall ensure that a record of these decisions, including a copy of the report, subject to any requirement for confidentiality, is available for public inspection during normal office hours, and that the public shall have a right to copy or to be provided with a copy, of any part of that record upon payment of a reasonable copying and administrative charge.

**3.6 Accountability**

Officers are accountable for any decision which they make and may be required to report to and to attend and answer questions at an Authority meeting in respect of such decisions.

**4. Administrative Decisions**

4.1 A decision shall not comprise an Administrative Decision if:

- (a) it is not within an approved budget;
- (b) it is in conflict with the established policies of the Authority;
- (c) it raises new issues of policy;
- (d) it will result in any staff being displaced or TUPE transferred;
- (e) it requires the acquisition or disposal of any interest in land;
- (f) it requires a virement of funding of above £50,000;
- (g) it requires the acceptance of a tender for a contract in excess of £100,000 unless such an acceptance satisfies value for money requirements stated in the Contract Procedural Rules;
- (h) it proposes the payment of an ex-gratia payment or payment of a sum in settlement of a complaint against the Authority;
- (i) it proposes the write-off of a debt to the Authority of more than £1,000;
- (j) the Officer is of the opinion that it should be treated as an Executive Decision.

**4.2 Consultation and Publicity**

- (a) Officers do not have to produce or publish a formal written report in respect of an Administrative Decision, but they must undertake appropriate consultation with the relevant Officers, before making the decision.

- (b) Where the decision proposes the write-off of a debt owed to the Authority, the Treasurer must be consulted and the matter must be dealt with in accordance with the Financial Procedure Rules.

4.3 Recording and Reporting of Administrative Decisions

There is no requirement to maintain a record of Administrative Decisions for the purpose of Member or public access, but Officers are responsible for retaining a record of the Administrative Decisions which they take, and the reasons for such decisions, sufficient for audit and evidential purposes, and for ensuring that all those who need to know are informed promptly of the decision.