

Part 3.6 Scheme of Delegation to Officers

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Section 1 - Guiding Principles

1.1. Introduction

This document sets out how the Council has delegated its executive and non-executive powers to officers. Its purpose is to ensure that there are sufficient properly authorised, officers to carry out the Council's business, lawfully and effectively and that everyone: officers, members and the public, knows who they are.

These delegations to officers are the last link in the chain of delegation which begins with the framework described in the Constitution. They must be read in conjunction with the Constitution itself, and in particular the arrangements for discharge of executive and non-executive functions set out in Part 3, and those delegations to Committees, sub-Committees and Directors.

General principles

Officers may exercise delegated powers provided that the matter:-

- is covered by an approved policy
- there are no unusual features
- there are no political or other significant issues,

otherwise the matter should be referred to Members to determine.

In exercising delegated powers officers must:

- Incur expenditure within approved estimates/limits.
- Comply with the Council's procedural rules and constitution, including the Contract Procedure Rules and Financial Procedure Rules in force at the time.
- Comply with any policy, plan or direction of the Council, Cabinet or Committee.
- Comply with the Council's internal policies, procedures and guidance.
- Consult where appropriate, and/or agree with other relevant officers.
- Consult or refer the matter to the Chief Executive, s.151 Officer and/or Monitoring Officer in appropriate cases.
- Keep appropriate records and registers of decisions and report to Council, Cabinet or Committee if required.

In using delegated powers, officers are accountable to the Council or Cabinet or the Committee from which those delegated powers derive.

Acts of officers done under delegated powers are deemed to be acts of the Council.

1.2. Structure of the Scheme

Section 2 of the Scheme is the **General Delegations**. These are delegated powers which are common to all parts of the Council and relate to the Finance, Procurement, Human Resources, Legal transactions and Property Management functions which support the main work of the Council.

Section 3 lists the 'Proper Officers' described in Part 3.6.4 of the Council's Constitution. These are posts which are created by legislation rather than resulting from a chosen structure. The proper officers are listed and cross referenced to officer posts in each directorate. 'Proper Officers' include the 'statutory chief officers' whose roles are set out in Article 13 of the Constitution. Although they retain personal responsibility for how their powers are used, they may delegate some of their duties to other officers. In the absence of the proper officer function being listed, it is deemed to be exercisable by the chief officer with responsibility for the function.

Section 4 sets out the functions delegated to each Directorate. The Executive Director is responsible for maintaining a written internal scheme of delegation setting out particular posts or groups of posts can exercise functions and make decisions. The internal scheme is subject to restrictions set out in the constitution and where the two documents do not align, the constitution takes precedence.

1.3. Reserved Matters, deemed delegations and general authorities

Matters reserved to the Council, the Executive, and their Committees:

Functions may be specifically reserved to the Council, or a Committee of the Council, or to the Executive of the Council, either under the Articles of the Constitution, Part 3 of the Constitution (Responsibilities for Functions), Financial Regulations or Contract Procedure Rules. Functions may also be reserved under the Scheme of Delegations. These reserved functions may not be carried out by any officer unless they have been specifically delegated to him/her by the person or body holding the reserved power. The only exception is the urgency provision set out in paragraph 1.4 below.

Deemed delegations to officers:

- Any matter not specifically reserved in this way will be deemed to be within the delegated authority of the Chief Executive or the relevant Executive Director.

The Chief Executive may exercise any function delegated to any other officer, except those functions of the other statutory chief officer or where the delegation is to an officer with a required appointment process e.g. appointed health and safety inspector. Executive Directors may exercise any function outside their directorate delegations delegated to them by the Chief Executive.

- Statutory chief officers and proper officers should make arrangements to appoint an individual to undertake their responsibilities during period of absence.

- London Borough of Harrow has a delegation of function to:
 - commence, defend or settle any legal proceedings as necessary to protect the interests of the Council, whether or not specifically delegated under this scheme.
 - Take any action in order to protect the interests of the Council or of any person or property to whom, or for which, the Council has responsibility or in order to give legal effect to any decision or action properly taken by the Council or a Committee or person on behalf of the Council, including certifying documents as a copy of the original.
 - Sign any documentation to give effect to any resolution of the Council in any tribunal or court.
 - Sign any document necessary to give effect to any decision of the Council.

This delegation is exercised by the Head of Legal, London Borough of Harrow, who is permitted to delegate the function to any of her officers. The Monitoring Officer also has power to exercise these functions.

1.4. Urgency provisions – Non-Executive functions

The following provisions apply regardless of any specific reservations to Members:

- The Chief Executive has power to act in cases of emergency or urgency to discharge non-executive functions.
- In the absence of the Chief Executive, the Executive Director nominated to deputise will exercise emergency or urgency powers in the same way.

Urgency provisions – Executive functions

- Subject to consultation with the Leader of the Council (or in his/her absence the Deputy Leader) where possible, the Chief Executive (and his or her appointed deputy in the case of absence) shall have the power to exercise executive functions in cases of emergency or urgency.

When deciding whether a matter is an emergency or urgent, consideration should be given to the following:

- whether it is prejudicial to the Council's interest to delay
- whether it is practicable to call an emergency member meeting or use the Leader's Action procedure as set out in Part 4.4 – Executive Procedure Rules
- whether it is appropriate to refer the matter to a member meeting following the action
- compliance with the significant officer decision procedure set out below.

1.5. Incidental and ancillary functions, successor legislation, meaning of 'officer'

Incidental functions: any reference to officers being authorised to carry out or perform any functions in the schemes shall be deemed to include the authority to carry out any other functions which are necessary or incidental to, or required to facilitate or be conducive to the performance of the function in question.

Successor legislation: any reference in the Schemes 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 may be introduced or enacted by way of substitution, revision or amendment.

If the Council acquires a new function responsibility will fall to the Chief Executive or Executive Director with responsibility for the relevant service area.

Restructure

If the Council restructures its organisation, delegated authority will be deemed to be held by the chief officer with responsibility for the service area.

1.6 Significant Officer Decisions

For certain significant officer decisions, to ensure transparency, a written record will be made and published on the Council's website. Officers are responsible for preparing the written record as soon as reasonably practicable after any significant officer decision. The record will include the decision, date it was made, reasons for the decision, details of any alternative options considered and rejected and where a specific delegation has been given, the names of any member of the relevant committee/cabinet who has declared a conflict of interest. Decisions that are deemed to be key decisions as defined in Article 13 are reserved to Cabinet and should only be made by an officer if the urgency procedures have been followed.

1. Tenders/Contracts over £50,000 or 'politically sensitive' excluding individual social services care packages and school placements.
2. Write-off of individual debts between £5,000 and £15,000.
3. Decisions arising from external report on significant Health and Safety at Work Act risk.
4. Compulsory Purchase Orders if under delegated authority.
5. Other decisions such as those with political, media or industrial relations implications that Directors consider Members should be aware of.
6. Appointments to casual vacancies on committees, sub-committees, Panels, and outside bodies
7. Decisions that grant a permission or licence or otherwise affect the rights of an individual and are not otherwise publicly recorded in accordance with other statutory requirements.
8. Specific decisions that have been delegated to a particular officer by resolution at a Cabinet meeting to be taken following consultation with the relevant Cabinet Member or be resolution of a committee or sub-committee of the Council.

Section 2 - General Delegations

Delegated Powers

General

Taking and implementing any decision required for operational effectiveness.

Taking any action necessary to ensure the effective development and implementation of the Council's key strategies and services relating to directorates.

Investigating and resolving complaints, including agreeing the payment of compensation, including payments or other benefits in cases of maladministration.

Responding to requests for data or information in accordance with information law procedures.

Attending and representing the Council on partnership boards.

To conduct criminal investigations, including exercising statutory powers, administering cautions and conducting financial investigations in relation to proceeds of crime.

Exercising proper officer functions where these are not specifically designated under section 3 below.

Financial – these are subject to limits within the Financial Procedure Rules

Preparation for member approval of the annual directorate budget

Monitoring of directorate budget

Authorise expenditure within approved revenue budget estimates.

Virement of revenue and capital in accordance with Financial Procedure Rules.

Authorise collection of income

Authorise expenses

To agree in-year variations to costs, fees and charges

- up to 3% plus inflation

Applying for grants

Disposing of non-land assets

Write off debts

Procurement – these are subject to limits within Contract Procedure Rules

Authorise tendering processes

Approve contracts

Approve variations in contracts

Approve use of consultants

Human Resources – these are subject to internal HR policies and procedures

To appoint, suspend and dismiss staff

To take any action under the Council's employment policies and procedures

To re-organise staff within their directorates, subject to budgetary implications

Consultation with trade unions on staff organisational changes

Maintaining an up-to-date staffing structure

Property - subject to budgetary provision and compliance with internal procedures and statutory processes

To authorise the granting, renewal, termination, assignment or sub-letting of leases, tenancies or other interests in land and property.

To approve variations in rent arising from rent reviews of land and property leased to or by the Council.

To authorise the acquisition of legal estates or interest in land and property in accordance with agreed policy and within the capital programme.

To authorise the disposal of legal estates or interests in land and property not required by the Council.

To authorise the taking, granting, revocation or termination of covenants, easements, wayleaves, licences and other rights or user.

To serve and respond to statutory notices in relation to land.

To authorise the appropriation of land, including appropriation by the HRA from the general fund.

Legal transactions

Instructing HB Public Law (London Borough of Harrow) or the Monitoring Officer in relation to legal matters and disputes.

Instructing external lawyers in relation to legal matters and disputes, where agreement has been sought from the HB Public Law or the Monitoring Officer that instructions are appropriate.

Authorising officers to attend court and appear on behalf of the Council under s.223 Local Government Act 1972 and the County Courts Act 1984, following consultation with the Monitoring Officer or HB Public Law.

Section 3 – Proper Officer and Statutory Officer designations (statutory chief officers are set out in Article 12) - this list is not exhaustive and the proper officer functions not specifically referred to will be designated to the chief officer managing the relevant service.

Post	Designation	Function
Chief Executive	Electoral Registration Officer and other proper officer election functions	Section 8 - Representation of the People Act 1983 Section 82 – Representation of the People Act 1983
Chief Executive	Returning Officer	Section 35 - Representation of the People Act 1983
Chief Executive	Acting Returning Officer	Section 28 - Representation of the People Act 1983
Superintendent Registrar	Proper Officer for Births, Deaths and Marriages	Registration Services Act 1953
Head of Governance and Scrutiny	Scrutiny Officer	Section 31 – Local Democracy, Economic Development and Construction Act 2009
Head of Virtual School, Slough Children First Ltd.	Virtual School Head	Section 22 Children Act 1989
ICT and Digital Service Manager	Data Protection Officer	GDPR
Chief Executive	Proper Officer for notices regarding councillor appointments and resignations	Section 83 to 99 Local Government Act 1972
Chief Executive	Proper Officer for notices of council meetings	Section 100 to 100G Local Government Act 1972
Monitoring Officer	Proper Officer for deposit of documents and certifying documents.	Section 225 Local Government Act and associated legislation
Monitoring Officer	RIPA Responsible Officer for register of authorisations	Section 28 and 29 of the Regulation of Investigatory Powers Act 2000

Section 4 – Specific Delegations

Chief Executive

To take any action necessary to ensure the effective and efficient management and operations of the Council and the effective development and implementation of the Council's key strategies and services. If following a Borough Election the Leader has not been elected as a councillor or, if re-elected, the political party of which they are a member does not have a majority on the Council, then until a Leader is appointed, the Head of Paid Service (in consultation with all Group Leaders) shall be authorised to take and implement any decision required for operational effectiveness of the Council but excepting any such responsibilities, duties and powers specifically reserved to any other person or body.

To promote the importance of the ethical agenda and to sustain the highest standards of ethical behaviour on the part of the Council's officers in accordance with the Code of Conduct for Council Employees and to undertake any action necessary to ensure the effective development and implementation of the Council's Corporate Governance Framework.

Approve minor and technical changes to the Council constitution in consultation with the Monitoring Officer.

Following consultation with the Leader and Leader of the Opposition, to suspend the Monitoring Officer or officer designated as Chief Finance Officer in exceptional circumstances for up to ten days pending the Chief Officer's Employment Panel being convened to consider the suspension in accordance with Part 4.7 of the constitution.

Following consultation with the Leader and Leader of the Opposition, to refer matters of discipline (as defined in the disciplinary procedure) in respect of the Monitoring Officer or officer designated as Chief Finance Officer to the relevant member panel.

Executive Director – Finance and Commercial

Functions in relation to:

Finance
Audit, risk and anti-fraud
Revenue and benefits
Procurement and commercial services

Following consultation with the Leader and Leader of the Opposition and the Monitoring Officer, to suspend the officer designated as Head of Paid Service in exceptional circumstances for up to ten days pending the Chief Officer's Employment Panel being convened to consider the suspension in accordance with Part 4.7 of the constitution.

Following consultation with the Leader and Leader of the Opposition, to refer matters of discipline (as defined in the disciplinary procedure) in respect of the officer designated as Head of Paid Service to the relevant member panel.

Executive Director – Housing, Planning and Property

Functions in relation to:

Housing needs
Tenant and leaseholder services
Housing allocations and social lettings
Planning services
Property asset management
Regeneration development and delivery

Executive Director – People (Adults)

Functions in relation to:

Adult social care operations
Adult social care commissioning
Mental health
Public health

Executive Director – People (Children)

Functions in relation to:

Children’s social care
Children’s centres and early help services
Early years
Access and inclusion
School effectiveness
Education services
Special educational needs and disabilities
Youth services

Executive Director – Place and Communities

Functions in relation to:

Cemeteries and crematoriums
Community safety
Transport and highway planning
Regulatory services
Community services, including registrars, leisure and libraries

Executive Director of Strategy and Improvement

Functions in relation to:

Human Resources
Communications
Data and insight
Business support
Customer services
Information governance
ICT
Programme management and transformation

Monitoring Officer

Functions in relation to:

Democratic governance
Scrutiny
Elections and electoral registration

Legal services

Following consultation with the Leader and Leader of the Opposition and the Chief Finance Officer, to suspend the officer designated as Head of Paid Service in exceptional circumstances for up to ten days pending the Chief Officer's Employment Panel being convened to consider the suspension in accordance with Part 4.7 of the constitution.

Following consultation with the Leader and Leader of the Opposition, to refer matters of discipline (as defined in the disciplinary procedure) in respect of the officer designated as Head of Paid Service to the relevant member panel.