

CONSTITUTION WORKING PARTY		
Report Title	COUNCIL SCHEME OF DELEGATION	
Key Decision	N/A	
Ward	All	
Contributors	Head of Law	
Class	Part 1	Date 15 November 2011

1. Summary

The report sets out the changes to the Scheme of Delegation made by the Council Urgency Sub Committee on 20 October 2011, to enable the reorganisation of the Council's five directorates to four to take effect on 24th October this year. The report asks the CWP to refer those changes to the next meeting of full Council with a recommendation that they be incorporated into the Constitution.

2. Purpose

To ensure that the Council Scheme of Delegation is kept up to date.

3. Recommendation

To endorse the Council scheme of delegation appearing in Appendix 1 and recommend to Council that it adopts this scheme until further notice and amends the Constitution accordingly

4. Background

- 4.1 By regulations made under the Local Government Act 2000 (as amended), certain decisions fall to the directly elected Mayor, and others, by law are matters either for the full Council or in accordance with its scheme of delegation.
- 4.2 Again in accordance with the law, the two schemes of delegation are incorporated into the Council's Constitution and are available for public inspection. The schemes of delegation can be amended from time to time.
- 4.3 In order to improve the management arrangements in the Council and to reduce senior management costs, a reorganisation of the Council's directorates took effect on 24th October this year, following the

departure of the former Executive Director for Regeneration. At this point the number of council directorates reduced from 5 to 4.

- 4.4 Both the Council and Mayoral Schemes of Delegation provide for certain functions to be delegated to Executive Directors or as they nominate, and so to give effect to the reorganisation, the schemes of delegation required amendment so that Council business could continue to be conducted effectively.
- 4.5 As there was no meeting of the full Council scheduled until the end of November, a month after the implementation of the reorganisation, the Council Urgency Sub Committee was asked to consider the matter, pending that Council meeting. On 20th October it agreed the attached Council scheme of delegation unless and until the full Council considered the matter further. The scheme approved by the Council Urgency Sub-Committee appears at Appendix 1. The Constitution Working Party is now asked to recommend the attached scheme of delegation to the full Council.
- 4.6 CWP should be aware that the Council Urgency Sub Committee was also asked to, and did, agree that all planning decisions in relation to public houses and empty buildings formerly in use as pubs be reserved to members. This is reflected in the Appendix.
- 4.7 At the same time, the Mayor also agreed changes to his scheme of delegation and this was notified to all members immediately thereafter. These changes will also be reported to the next full meeting of the Council.

5. Legal implications

These are broadly set out in the report

6. Financial implications

There are no particular financial considerations.

7. Equalities implications

Members are reminded of their duties under the Equality Act 2010, but there are no specific implications arising from the proposed changes to the scheme of delegation.

8. Environmental implications

There are none.

9. Crime and Disorder implications

There are none, save to say that the scheme of delegation is designed to ensure that decisions are taken properly, transparently and avoiding impropriety.

10. Background papers

Report to the Council Urgency Sub Committee 20/10/11 – available on the Council's website

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COUNCIL SCHEME OF DELEGATION

Schedule of Delegation to Officers in Relation to Non-executive Planning and Highways Matters

Delegated Functions:

To the Executive Director for Resources or such officers as he/she may nominate

Authority to deal with all town and country planning, development control, high hedges and highway and road traffic functions under all existing and future relevant legislation, and as amended from time to time, including (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive and those matters reserved to the planning committees A, B or C or the strategic planning committee. This includes by way of example but not limitation: -

- Determining applications, (or declining to determine applications where applicable), for planning permission, advertisement consent, listed buildings and conservation area consent, certificates of lawfulness or lawful development, works to trees, hazardous substances, environmental impact assessment screening and scoping opinions, decisions in respect of the prior approval procedure for telecommunication development.
- Issuing planning contravention notices, breach of condition notices, enforcement notices, stop notices, temporary stop notices, untidy land notices and other similar notices and questionnaires
- Making and confirming tree preservation orders and enforcing their provisions
- Taking action in relation to unauthorised advertisements, placards or posters
- Entering into agreements to regulate the development or use of land (including the approval of the detailed terms for inclusion in such agreements whether the agreement is to be entered into under delegated authority or following a resolution of members)

- Approving the details of conditions to be imposed on planning permissions (whether the permission is to be granted under delegated authority or following resolution to grant by members)
- Utilising the powers contained within planning, high hedges and highways legislation to gain entry to premises for the purpose of carrying out surveys and establishing whether there has been a breach of legislation including applying to the magistrates' court for a warrant of entry
- Carrying out any other regulatory enforcement functions contained in town and country planning, high hedges, road traffic or highways legislation in force from time to time
- Authorising the Head of Law to take any legal action which may be appropriate which relates to any function of the Executive Director including the taking or defending of legal proceedings and entering into legal agreements as may be required
- Creating, diverting and stopping up footpaths, highways and bridleways
- The making and enforcement of highways orders
- Dealing with applications for street works licences
- Exercise of non-executive powers under local legislation (including without limitation, names of streets under Sections 5 and 6 London Building Acts (Amendment) Act 1939)
- Exercise of powers under Part 8 of the Anti-social Behaviour Act 2003 in relation to high hedges

Schedule (non-exhaustive) of relevant statutes (in so far as they relate to non-executive highways and planning matters)

- Planning and Compulsory Purchase Act 2004
- Anti-Social Behaviour Act 2003, Part 8
- Town & Country Planning Act 1990,
- Planning & Compensation Act 1991,
- Planning (Listed Buildings & Conservation Areas) Act 1990,
- Planning (Consequential Provisions) Act 1990,
- Planning (Hazardous Substances) Act 1990
- Caravan Sites and Control of Development Act 1960,
- Ancient Monuments & Archaeological Areas Act 1979,
- Local Land Charges Act 1975,
- Noise and Statutory Nuisance Act 1993,
- Environmental Protection Act 1990,
- Environment Act 1995,
- Local Government (Miscellaneous Provisions) Act 1976,
- London Building Acts 1930 to 1978,
- Building Act 1984,
- Greater London Council (General Powers) Act 1982,
- Highways Act 1980,
- New Roads and Street Works Act 1991
- Cycle Tracks Act 1984,
- Road Traffic Acts 1972, 1988 and 1991,
- Road Traffic Regulation Act 1984,
- Road Traffic (Temporary Restrictions) Act 1991,
- Transport and Works Act 1992,
- Road Traffic Regulation (Special Events) Act 1994,
- Greater London Authority Acts 1999,
- Local Government Planning and Land Act 1980,
- Transport Act 2000,
- Countryside and Rights of Way Act 2000
- Wildlife and Countryside Act 1987
- Housing Act 1981
- And all other relevant legislation in place from time to time

Nothing in this Schedule of Delegation prevents any Planning Committee or the Strategic Planning Committee exercising any function within their terms of reference.

The Committee may from time to time delegate to officers such functions as it considers appropriate.

Matters reserved to planning committees A, B and C and strategic planning committee

Town and country planning and development matters where:

1. there are three or more valid planning objections; or
2. there is one or more objection from a recognised residents' association or community/amenity group; or
3. the application is for development which is not in accordance with the approved development plan documents or other approved planning policies or
4. in the opinion of the Council's Head of Planning the matter would be more appropriately dealt with by the relevant committee.
5. consider all town and country planning matters relating to the demolition of any building that is in use as a public house, or which is currently unoccupied but was in use as a public house immediately prior to becoming unoccupied.

Schedule of Delegation to Officers in Relation to Non-executive Building Control Matters

Delegated Functions:

To the Executive Director for Customer Services or such officers as he/she may nominate:-

Authority to deal with all non-executive building control functions under existing and future relevant legislation, and as amended from time to time, including (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive and those matters reserved to the planning committees A, B or C or the strategic planning committee. This includes by way of example but not limitation: -

- Determining applications, (or declining to determine applications where applicable), for building control approval.
- Issuing enforcement notices, and other similar notices and questionnaires
- Issuing notices and orders in relation to building control
- Using the powers contained within legislation to gain entry to premises for the purpose of carrying out surveys and establishing whether there has been a breach of legislation including applying to the magistrates' court for a warrant of entry
- Carrying out any other regulatory enforcement functions and building control contained in legislation in force from time to time
- Authorising the Head of Law to take any legal action which may be appropriate which relates to any function of the Executive Director including the taking or defending of legal proceedings and entering into legal agreements as may be required
- Removal of nuisance deposits on the highway
- Dealing with applications for street works licences

Schedule (non-exhaustive) of relevant statutes (in so far as they relate to non-executive building control matters:

- Noise and Statutory Nuisance Act 1993,
- Environment Act 1995,
- London Building Acts 1930 to 1978,
- Greater London Council (General Powers) Act 1982
- Local Government (Miscellaneous Provisions) Act 1976,
- Building Act 1984,
- Local Government Planning and Land Act 1980,
- Housing Act 1981
- Greater London Authority Act 1999,
- Countryside and Rights of Way Act 2000
- Wildlife and Countryside Act 1987
- And all other relevant legislation in place from time to time

Nothing in this Schedule of Delegation prevents any Planning Committee or the Strategic Planning Committee exercising any function within their terms of reference.

The Committee may from time to time delegate to officers such functions as it considers appropriate.

Matters reserved to planning committees A, B and C and strategic planning committee

Building control matters where:

1. there is one or more objection from a recognised resident's association or community/amenity group; or
2. in the opinion of the Council's Head of Housing Strategy & Regulation the matter would be more appropriately dealt with by the relevant committee

Schedule of Delegation From Licensing (Supplementary) Committee

Delegated Function

- 1 To the Executive Director for Customer Services or such officer as he/she may nominate:-

Authority to exercise all of the Council's licensing and registration functions under all existing and future relevant legislation, and as amended from time to time, including (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive and those matters reserved to the Licensing Committee and save for any licensing functions under the Licensing Act 2003. This includes by way of example but not limitation: -

Schedule (non-exhaustive) of relevant statutes

- Animal Boarding Establishments 1963
- Betting, Gaming and Lotteries Act 1963
- Breeding of Dogs Act 1973
- Breeding and Sale of Dogs (Welfare) Act 1999
- Children and Young Persons Act 1933
- Consumer Protection Act 1987
- Customs and Inland Revenue Act 1883
- Dangerous Wild Animals Act 1976
- Fire Precautions Act 1971
- Fire Safety and Safety of Places of Sport Act 1987
- Explosive Act 1875
- Food Safety Act 1990
- Game Act 1831
- Game Licences Act 1860
- Gaming Act 1968
- Greater London (General Powers) Act 1976
- Hypnotism Act 1952
- London Government Act 1963
- Local Government Acts 1985 and 1972
- Local Government (Miscellaneous Provisions) Acts 1976 and 1982
- London Local Authorities Acts 1990, 1991, 1994, 1995 and 2000
- Lotteries and Amusements Act 1976

- Marriage Act 1949
- Nurses Agencies Act 1957
- Pet Animals Act 1951
- Poisons Act 1972
- Public Health Acts Amendment Act 1907
- Rag, Flock and Other Filling Materials Act 1951
- Riding Establishments Act 1964
- Safety of Sports Grounds Act 1975
- Scrap Metal Dealers Act 1964
- Slaughterhouses Act 1974
- Theatres Act 1968
- Town Police Clauses Act 1847
- Weights and Measures Act 1985
- Zoo Licensing Act 1981
- and all relevant legislation in place from time to time

2 To the Executive Director for Customer Services or such officer as he/she may nominate

Authority to exercise all of the Council's licensing and registration functions under existing and future relevant legislation, and as amended from time to time, including (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive and those matters reserved to the licensing committee and save for any licensing functions under the Licensing Act 2003, which are delegated to the Executive Director for Customer Services. This includes by way of example but not limitation: -

Schedule (non-exhaustive) of relevant statutes

- Caravan Site and Control of Development Act 1960
- Highways Act 1980
- and all relevant legislation in place from time to time

Nothing in this schedule prevents the Licensing (Supplementary) Committee exercising functions within their terms of reference.

The Committee may also from time to time delegate such functions to officers as it considers appropriate.

Record of Delegations

The Executive Director for Customer Services and the Executive Director for Regeneration shall maintain an up to date list of all delegations made to other officers from time to time and a copy shall be provided to the Proper Officer.

Matters reserved to Licensing (Supplementary) Committee

- 1 Determination of any appeals against a decision made by the authorised officers under powers delegated to them to refuse or revoke licences, permits or registration.
- 2 Determination of any opposed applications for licences, permits or registration.
- 3 The review and determination of the charges to be imposed in respect of the licensing function.
- 4 where the chair or vice chair of the committee indicates that the nature or circumstances of the matter are such that the matter should be determined by the committee

Delegated Function

Nothing in this schedule prevents the Licensing (Supplementary) Committee exercising functions within their terms of reference.

The Committee may also from time to time delegate such functions to officers as it considers appropriate.

Schedule of Delegation to Officers by Licensing Committee

Delegated Function

To the Executive Director for Customer Services or such officer as he/she may nominate authority to exercise all of the Council's licensing functions under the Licensing Act 2003, as amended from time to time, save for those matters reserved to the Licensing Committee or sub-committees

The functions to be reserved to the Licensing Committee, sub-committees and those to be delegated to officers are as follows:

Matter to be dealt with	Licensing Committee	Licensing Sub-Committee	Officers
Application for Personal Licence	Any matter which the Head of Regulatory Services considers to be more appropriate for consideration by the main Committee	If a police objection	If no objection made
Application for Personal Licence with unspent convictions	Any matter which the Head of Regulatory Services considers to be more appropriate for consideration by the main Committee	All cases	
Application for Premises Licence / Club Premises Certificate	As above	If a relevant representation made	If no relevant representation made
Application for Provisional Statement	As above	If a relevant representation made	If no relevant representation made
Application to vary Premises Licence / Club Premises Certificate	Any matter which the Head of Regulatory Services considers to be more appropriate for consideration by the main Committee	If a relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor	As above	If a police objection	All other cases
Request to be removed as Designated	Any matter which the Head of Regulatory Services considers to		All cases

Premises Supervisor	be more appropriate for consideration by the main Committee		
Application for transfer of Premises Licence	As above	If a police objection	All other cases
Application for Interim Authorities	As above	If a police objection	All other cases
Application to review Premises Licence / Club Premises Certificate	Any matter which the Head of Regulatory Services considers to be more appropriate for consideration by the main Committee	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc	As above		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	As above	All cases	
Determination of a police objection to a Temporary Event Notice	Any matter which the Head of Regulatory Services considers to be more appropriate for consideration by the main Committee	All cases	

Nothing in this Scheme of Delegation shall prevent the Licensing Committee from exercising functions within its terms of reference.

The Committee may also from time to time delegate such functions to officers as it considers appropriate

Schedule of delegation to officers in relation to the functions of the Elections Committee

Delegated Functions

To the Chief Executive, Proper Officer or such officers as he/she may nominate, authority to deal with all arrangements in connection with Electoral Registration and Elections and all responsibility under existing and future legislation, and as amended from time to time, (without limitation) the Acts set out in the Schedule below, save for those local choice functions reserved to the Executive. This includes by way of example but not limitation:-

- **Boundary Changes** – Periodic Review imposed by the Boundary Commission in connection with Parliamentary, European, Greater London and Borough boundaries.
- **Polling Districts** – Any changes in connection with the polling district boundaries.
- **Polling Places** – Any proposals to change polling places.
- **Voting Methods** – Proposals to apply for pilot status to adopt voting methods or to trial variations in election practice.

Schedule (non-exhaustive) of relevant statutes

- Parliamentary Elections Act 1695 (s.7)
- Act of Settlement 1700 (s.3)
- House of Commons (Clergy Disqualification) Act 1801
- Roman Catholic Relief Act 1829 (s.9)
- Forfeiture Act 1870 (s.2)
- Public Bodies Corrupt Practices Act 1889 (ss. 1,2,7-9)
- Trade Union Act 1913 (ss.2,3,6,6A,7)
- Welsh Church Act 1914 (s.2(4))
- Parliament (Qualification of Women) Act 1918
- Defamation Act 1952 (s.10)
- Banking and Financial Dealings Act 1971 (ss.1,5 and Sch.1)
- Local Government Act 1972 (Extracts)
- House of Commons Disqualification Act 1975
- Recess Elections Act 1975
- European Parliamentary Elections Act 1978
- Magistrates' Courts Act 1989 (s.32)
- Representation of the People Act 1981
- Forgery and Counterfeiting Act 1981 (Extracts)
- Criminal Justice Act 1982 (s.37)
- Representation of the People Act 1983

- Representation of the People Act 1985
- Parliamentary Constituencies Act 1986
- Representation of the People Regulations 1986
- European Community (Amendment) Act 1986
- Representation of the People Act 1989
- Local Government and Housing Act 1989
- Boundary Commissions Act 1992
- Local Government Act 1992 (Extracts)
- Representation of the People Act 2000
- Political Parties Elections & Referendums Act 2000
- Representation of the People (England and Wales) Regulations 2001
- Electoral Administration Act 2006
- Constitutional Reform and Governance Act 2010
- Fixed-term Parliaments Act 2011
- Local Democracy, Economic Development and Construction Act 2009
- Local Government and Public Involvement in Health Act 2007
- Parliamentary Voting System and Constituencies Act 2011
- Police Reform and Social Responsibility Act 2011
- Political Parties and Elections Act 2009
- And all other relevant legislation in place from time to time.

Nothing in this schedule of delegation shall prevent the Council or the Elections Committee from exercising functions within its terms of reference.

Schedule of delegation to officers in relation to the functions of the Pensions Investment Committee

To the Executive Director for Resources such functions as the Pensions Investment Committee lawfully delegates from time to time.

Schedule of delegation in relation to the functions of the Health & Safety Committee

To the Chief Executive or such officers as the Committee decides such functions as it lawfully delegates from time to time.

General

All non-executive functions not reserved to members, shall be delegated to the Chief Executive or such officer as he shall nominate in writing, unless there is a statutory requirement that the function be carried out by another officer, for example the personal statutory responsibilities of the Director of Childrens Services and the Director of Adult Services)

Directorate Schemes of Delegation

The extent to which non-executive decision making powers are delegated to officers below Executive Director level appear at **Page XX** (DIRECTORATE SCHEMES)