

**Decision by Portfolio Holder**

**Report reference: ENV-004-2009/10**  
**Date of report: 2 December 2009**



**Portfolios:** Community Safety and Transport (Crime and Disorder)  
 Environment (Safer, Cleaner, Greener)

**Author:** J Gilbert (Ext 4062) Democratic Services: R Perrin

**Subject:** Additional delegated authorities for dealing with anti-social behaviour and related matters

**Decision:**

1. To approve the legislative updates to Appendix B of the Executive Delegations in part 25 of the Council's Constitution; and
2. Subject to decision (1) above to delegate to the Director of Environment & Street Scene the additional legislative powers relating to the updates in accordance with the existing authority in EX53 of the Executive Delegations in part 25 of the Council's Constitution

<b>ADVISORY NOTICE:</b>	
<i>A Portfolio Holder may not take a decision on a matter on which he/she has declared a prejudicial interest. A Portfolio Holder with a personal interest must declare that interest when exercising delegated powers.</i>	
I have read and approve/do not approve (delete as appropriate) the above decision:	
Comments/further action required:	
Signed:	Date:
<i>Personal interest declared by Portfolio Holder/ conflict of interest declared by any other consulted Cabinet Member:</i>	<i>Dispensation granted by Standards Committee: Yes/No or n/a</i>
<b>Office use only:</b> Call-in period begins:	Expiry of Call-in period:

**After completion, one copy of this pro forma should be returned to Democratic Services IMMEDIATELY**

**Reason for decision:**

To enable the relevant officers within the Environment & Street Scene Directorate to have available to them additional legislative powers to assist them to undertake their duties in relation to the management of anti-social behaviour and related matters.

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**Options considered and rejected:**

The only options were:

- (a) not to update appendix B;
- (b) to update appendix B but retain the delegated authority with the Portfolio Holders.

These were not considered appropriate given the extensive delegations which already exist and the need for Appendix B to properly contain the legislative powers required to fulfil the Council's "Safer, Cleaner, Greener" policy commitments

**Background Report:**

1. Part 25 of the Council's Constitution sets out the schedules of delegation from the Executive to officers to enable them to undertake their duties without continual recourse to cabinet or Portfolio Holders. This enables officers to deal speedily with matters such as enforcement.
2. Within part 25 is the list of delegations expressly given by the Leader of Council known as "Executive Delegations". Amongst these is Executive Delegation 53 (EX53 - see attached) which delegates the following:
  - (a) the Director of Environment & Street Scene to empower appropriate professional officers to utilise a wide range of environmental powers in support of the "Safer, Cleaner, Greener" policy. The legislative details are to be found in Appendix B of EX53;
  - (b) the Director of Environment is authorised to make these delegations by the relevant Portfolio Holder or Portfolio Holders; and
  - (c) The appropriate Portfolio Holder is authorised to update the legislative content of Appendix B to EX53.
3. Following the completion of the training of the Environment & Neighbourhood Team and their successful accreditation under the Essex Police Safer Communities Accreditation Scheme, a review has been undertaken of existing delegated authorities to establish whether additional delegated powers would assist in the effective delivery of the "Safer, Cleaner, Greener" initiative. This review has been undertaken in conjunction with "Keep Britain Tidy" through its Cleaner, Safer, Greener network, of which Council is a member of along with all the Essex Districts, Boroughs and the County Council.
4. This review has resulted in a number of suggested additions to the current list of delegations which would provide additional powers for authorised officers to use. These are set out in the table below:

<b>Act and section</b>	<b>Matters dealt with</b>
Section 215 of the Town & Country Planning Act 1990	Power to require the proper maintenance of land

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Section 224 of the Town & Country Planning Act 1990	Powers to deal with unauthorised advertising which includes fly-posting
Section 225 of the Town & Country Planning Act 1990	Powers to seek removal of illegal advertising and fly-posting, which may include immediate removal under certain circumstances
Section 46 of the Environmental Protection Act 1990	Powers to manage receptacles used for household waste
Sections 1, 2, 3, 4, 5, 6 and 7 of the Refuse Disposal Amenity Act 1978	Powers relating to abandoned vehicles and the removal other materials or items from any land
Sections 131 & 132 of the Highways Act 1980	Powers to remove illegal advertising, posters, fly-posters etc from the highway of street furniture  <i>(This will be subject to the Essex County Council agreeing to providing the Council with delegated authority under the Highways Act 1980)</i>

**Consultation Undertaken:** The County Council Highway Service has been consulted in respect of them delegating powers to the Council under sections 131 and 132 of the Highways Act 1980. Their response is awaited

No other consultation has been undertaken other than the previously mentioned reference to “Keep Britain Tidy”

**Resource Implications:** There are no resource implications. The additional delegated powers will, if granted, be utilised by the existing teams of officers within the Environment & Street Scene Directorate.

**Legal and Governance Implications:** Changes to part 25 of the Council’s Constitution as it applies to Executive Delegated Authorities. Any decisions to embark upon legal action will, in accordance with existing arrangements, be subject to review by the Director of Corporate Support Services

**Safer, Cleaner and Greener Implications:** The additional delegations will provide additional powers to officers enabling them to be able to deal more speedily and effectively with a wider range of anti-social behaviour and environmental crime. This is wholly in accordance with the Council’s “Safer, Cleaner, Greener” strategy.

**Background Papers:** None.

**Impact Assessments:**

Did the initial assessment of the proposals contained in this report for relevance to the Council’s general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No

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What equality implications were identified through the Equality Impact Assessment process?  
Not relevant

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?  
Not relevant

**Key Decision Reference (Y/N): Y**