

Decision by Portfolio Holder



Report reference: HSG-012-2010/11
Date of report: 08-November-2010

**Epping Forest
District Council**

Portfolio: Housing – Councillor D Stallan

Author: Sally Devine (Ext) 4149 Democratic Services: Philippa Sewell

Subject: Private Sector Housing- Review of Delegated Authority for Officers.

Decision:

1. That the existing delegation to the Director of Housing and the Assistant Director of Housing (Private Sector and Resources) in relation to Private Sector Housing (Ref EX47) be amended by adding the following to the schedule of delegation:

‘ To authorise suitably qualified officers or specialist external personnel appointed by the Council, to exercise those functions relating to the management and provision of the private sector housing service as set out in Appendix A’,

2. That Section 215- 219 of the Town and Country Planning Act 1990 (as amended) and Section 196A-196C of the Planning and Compensation Act 1991 be added to the legislation listed in Appendix A of the Delegations

ADVISORY NOTICE: <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>
Office use only: Call-in period begins:	Expiry of Call-in period:

**After completion, one copy of this pro forma should be returned to
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**Initialled as original copy by
Portfolio Holder:**

Reason for decision:

To confirm the existing routine for the Director and Assistant Director of Housing to authorise relevant officers within the Private Sector Housing Service of the Housing Directorate and any specialist external personnel appointed by the Council to have delegated authority to exercise their duties.

To ensure that the powers contained within the Town and Country Planning Act 1990 (as amended) to deal specifically with unsightly land and buildings affecting the amenity of an area; and the power held within the Planning and Compensation Act 1991 providing rights of entry are available for enforcement purposes.

Options considered and rejected:

There are no other options other than not to utilise the powers under the Town and Country Planning Act concerned. This would not be in the best interest of proper enforcement.

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.
2. Within Part 25 is the list of delegations expressly given by the Leader of the Council known as Executive Delegations. Executive Delegation 47 (EX47 – see attached) delegates the Director of Housing and the Assistant Director of Housing (Private Sector and Resources) authority to exercise the statutory powers and duties set out in Appendix A (attached)
3. Currently, the Director and Assistant Director exercise their discretion by authorising Officers of the Private Sector Housing Team to carry out those functions relating to the management and provision of the Private Sector Housing Service on their behalf and it is proposed that the Schedule of Delegation should specify this.
4. The relevant officer will then have a 'Schedule of Officer Authorisation', signed by the Director of Housing, which reflects the powers set out in Appendix A which are appropriate for the post concerned. This will assist to prove in court, if necessary, that the officer is properly authorised
5. In addition to direct employees of the Council, specialist personnel are appointed from time to time to support existing staff and / or carry out specific tasks. In these cases they too need to be given the appropriate delegated authority to exercise functions on behalf of the Council for the period of their appointment.
6. As previously mentioned, Appendix A details the list of legislative powers delegated to the Director of Housing and Assistant Director of Housing (Private Sector and Resources). Approval is being sought to add the provisions of Section 215 – 219 of the Town and Country Planning Act 1990 (as amended) and Section 196A-196C of the Planning and Compensation Act 1991 to Appendix A. Likewise a further delegated authority to the relevant Portfolio Holder is proposed to allow these changes to be approved in the future.
7. Section 215 – 219 of the Town and Country Planning Act 1990 (as amended) allows a local authority a discretionary power to take steps to require land (including buildings) to be cleaned up when its condition adversely affects the amenity of an area. Section 196A-196C of the Planning and Compensation Act 1991 gives authorised officers the right of

entry onto land for enforcement purposes .The legislation can be used in respect of large vacant industrial sites, town centre frontages, derelict buildings and more appropriately for Private Sector Housing, rundown residential properties, including empty properties and overgrown gardens. The scope of the works that can be required is wide and may include clearance, tidying, demolition, re-building, external repairs and repainting.

8. This legislation is particularly useful to officers dealing with problematic empty properties which are left neglected, fall into disrepair, become unsightly and may attract vandalism and fly tipping. Taking enforcement action under the proposed legislation will secure improvements to the external appearance of the property and hopefully focus the owner into providing a long term solution into bringing the property back to use.

Resource Implications: There may be cases where works required by statutory notice are not complied with and are initiated in default by the Council. If the costs cannot be recovered immediately they will remain as a charge on the property until such time as the costs are paid or the property sold. However, in the case of empty properties, specific monies are currently available through the PLACE scheme (funded by Central Government grant), to absorb the complete costs incurred by the Council in carrying out enforcement works in default.

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 and will rely on properly drafted delegated authorities.

Safer, Cleaner and Greener Implications: The additional delegated power will enable officers to deal more effectively with the unsightly appearance of buildings and land and will assist in encouraging owners to bring empty properties back to use. This is in accordance with the Council's 'Safer, Cleaner, Greener' strategy

Consultation Undertaken: None

Background Papers: Town and Country Planning Act 1990 Section 215 (Best Practice Guidance)

Impact Assessments:

Risk Management

Equality and Diversity:

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

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been N/A undertaken?

What equality implications were identified through the Equality Impact Assessment process?

N/A

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?

N/A

Key Decision Reference (Y/N): No

Appendix A

SCHEDULE OF DELEGATION TO OFFICERS

Building Act 1984

Sections 59-62; 63; 64; 66; 67; 68; 70; 71; 76; 79; 84-85; 91-115.

Caravan Sites & Control of Development Act 1960

Sections 1; 2; 3; 4-5; 8-11; 12; 23; 24; 25; 26.

Caravan Sites Act 1968

Sections 3; 14.

Civil Evidence Act 1995

Section 9.

Clean Neighbourhoods & Environment Act 2005

Sections 102; 103.

Criminal Procedure & Investigations Act 1996

Section 26.

Environmental Protection Act 1990

Sections 79-82; Schedule 3

Home Energy Conservation Act 1995

Sections 2; 5.

Home Safety Act 1961

Section 1.

Housing Act 1985

Sections: 17; 54; 265-275; 289; 290-297; 300- 306; 308; 309; 319; 320; 324- 340; 435-443; 523;

535-537; 540-542; 544-546; 584A; 584B; 596; 597; 609; 611; 617.

Housing Grants, Construction & Regeneration Act 1996

Sections: 1-3; 19; 21-24; 29-31; 34-44; 51; 52; 55-57; 95.

Housing Act 2004

Sections 4; 5; 7; 8; 10; 11; 12; 16; 17; 20; 21; 25-29; 31-32; 40-43; 46; 47; 49; 50; 55-62; 64-67; 69; 70; 73; 74; 102-107; 110-113; 115; 116; 121; 122; 127; 129-131; 133; 136-140; 144; 210; 225, 232; 232-236; 239; 243; 255; 256.

Landlord & Tenant Act 1985 -

Sections 1; 2; 4; 8; 11; 12; 20; 34.

Local Government Act 1974

Section 36

Local Government & Housing Act 1989

Sections 89-93; 95; 97; 169.

Local Government (Miscellaneous Provision) Act 1976

Section 13; 15; 16; 33; 35.

Local Government (Miscellaneous Provision) Act 1982

Sections 27; 29; 30; 31; 32; 33; 37; 41.

Prevention of Damage by Pests Act 1949

Sections 4-7; 10; 22; 26.

Protection from Eviction Act 1977

Sections 6; 7.

Protection from Harassment Act 1997

Sections 1; 6; 7.

Public Health Act 1936

Sections 1; 45; 48-50; 83; 84-87; 264; 265; 268-270; 275; 276; 278; 284; 287; 290; 291; 293; 298.

Public Health Act 1961

Section 17; 22; 34; 36; 37; 73; 74.

Regulation of Investigatory Powers Act 2000

Section 3; 5; 11; 43; 45; 47; 49; 58; 72.