

Council Meeting

21 May 2013

APPENDIX H

**PART 3 (3)
(RESPONSIBILITY FOR
FUNCTIONS)**

APPENDIX 6

SCHEME OF DELEGATION OF EXECUTIVE FUNCTIONS TO CABINET MEMBERS AND OFFICERS

EPPING FOREST DISTRICT COUNCIL - SCHEME OF DELEGATION OF EXECUTIVE FUNCTIONS

1. GENERAL PRINCIPLES

- (a) This scheme delegates the powers and duties of the Executive to Cabinet Members and officers as a partnership.
- (b) This scheme delegates powers and duties within portfolios and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation as well as authorising the affixing of the Common Seal.
- (c) This scheme operates under Section 15 of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other powers enabling.
- (d) Officers and Cabinet Members shall keep members (especially ward members) properly informed of activity and its implications arising within the scope of these delegations.

2. GENERAL LIMITATIONS

- (a) Before taking a decision a Cabinet Member shall receive advice from the appropriate officer.
- (b) Any exercise of delegated powers shall be subject to a policy framework approved by the Council or the policies approved by the Cabinet from time to time including the Employment Policies (and Disciplinary Procedures), Equal Opportunities, Service Delivery Policies, and shall be guided by the relevant Codes of Conduct or Council protocols.
- (c) Any exercise of delegated powers shall be subject to:
 - (i) any statutory restrictions;
 - (ii) standing orders;
 - (iii) financial regulations; and
 - (iv) procurement standards.
- (d) In exercising delegated powers, Cabinet members and officers shall not go beyond the provision in the revenue or capital budgets for their service except to the extent permitted by financial regulations and procurement policy.
- (e) A Cabinet member shall not exercise delegated powers in respect of any issue which relates solely to his/her ward only, except if.
 - (i) the action is recommended by a Chief Officer; or
 - (ii) the action is one of a range of options recommended by a Chief Officer

3. GENERAL PROVISIONS

(a) This scheme includes the power for officers further to delegate in writing all or any of the delegated functions to other officers (described by name or post) either fully or under the general supervision and control of the delegating officer. Sub-delegations shall be recorded in a register kept by the Head of Policy Unit.

(b) All action taken under the terms of these delegations shall be properly documented.

(c) It shall always be open to an officer either to consult with the appropriate Cabinet member on the exercise of delegated powers, or not to exercise delegated powers but to refer the matter to the Cabinet.

(d) It shall be open to a Cabinet member to determine that the exercise of their delegated powers is not appropriate in cases where a Chief Officer or the Monitoring Officer recommends reference to the Cabinet, where consultation with other members indicates that the matter should be referred to the Cabinet or where the Leader of the Council so directs.

(d) In exercising delegated powers, officers shall consult with other appropriate officers and shall have regard to any advice given.

(e) In this scheme "officer" means the holder of any post named in this scheme as having delegated powers and duties.

(f) This scheme operates from 16 May 2002.

4. SPECIFIC DELEGATIONS

4.1 Leader of Council

Exercise of the powers and duties of the Leader of the Council in accordance with Part 3 of the Local Government and Public involvement in Health Act 2007 including:

(a) appointment of other Cabinet members up to a maximum of 9;

(b) allocation of responsibility for executive functions to Cabinet Members and Service Directors;

(c) establishment and terms of reference of Cabinet Committees;

(d) approval of representatives on outside organisations directly involved in the carrying out of executive functions;

(e) appointment of a Deputy Leader of the Council.

4.2 Cabinet Members

Decisions on executive functions falling within the allocated Cabinet service portfolio, and which are not delegated to officers.

4.3 Officers

Any decision which:

- (a) implements a policy or decision previously approved or taken by the Council, the Cabinet or a Cabinet member;
 - (b) facilitates or is conducive or incidental to the implementation of a policy or decision previously taken by the Council, the Cabinet or a Cabinet member;
 - (c) relates to the management of the human, material and financial resources made available for carrying out the functions for which they are responsible; and
 - (d) matters delegated by the Council, the Cabinet, a Committee or Sub-Committee from time to time (see Appendix 5).
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5. SPECIAL CIRCUMSTANCES

- 5.1 Where the proposed decision affects more than one service portfolio, there shall be an obligation for the other Cabinet members to be consulted before a decision is made.
- 5.2 Where a decision is of corporate significance or where there is a conflict of view, such matter shall stand referred to the Cabinet for consideration.
- 5.3 Cabinet members shall, in the exercise of delegated powers, consult with the Chairman of the appropriate Overview and Scrutiny Committee and the ward Councillor(s) where appropriate.
- 5.4 Cabinet Members shall have regard to the requirements of the Council's petitions procedure when making decisions on matters raised in such representations.

6. KEY DECISIONS

- 6.1 Delegation to Chief Officers acting on behalf of the Cabinet in respect of executive decisions shall not extend to the Making of Key Decisions as defined in Part 4 of this Constitution (Access to Information Rules).
- 7.1 Cabinet Members and officers making decisions on executive functions under this scheme of delegation shall act on the requirements of the law and the appropriate code of conduct in the event of an interest in that decision arising.
- 7.2 Any Cabinet member with a prejudicial interest under the Council's Code of Conduct shall, having declared that interest, not take any further part in consideration of that matter. The Cabinet members shall also not seek to influence the decision on that matter on any subsequent occasion. The matter shall thereupon stand referred to the next Cabinet meeting.