

SCHEME OF DELEGATION TO OFFICERS

- To:** Constitution and Ethics Committee
- Date:** 15th September 2015
- From:** LGSS Director of Law, Property and Governance (CCC Monitoring Officer)
- Electoral division(s):** All
- Purpose:** To inform the Committee of the current conditions and limitations on the exercise of delegated powers by officers of the Council which are contained within the Scheme of Delegation and Schemes of Authorisation.
- Recommendation:** The Committee is asked:-
1. To note the current conditions and limitations on the exercise of delegated powers by officers of the Council within the Scheme of Delegation and Schemes of Authorisation, as outlined in paragraph 4.
 2. To endorse the proposal for the Monitoring Officer to take appropriate steps to raise awareness of the requirements to:-
 - (a) consult/inform Local Members on the exercise of delegated powers as provided in the Schemes of Delegation and Authorisation; and
 - (b) Publish delegated decisions in accordance with the requirements of The Openness of Local Government Bodies Regulations.

<i>Officer contact:</i>	
Name:	Quentin Baker
Post:	Director of Law, Property & Governance and Monitoring Officer
Email:	quentin.baker@cambridgeshire.gov.uk
Tel:	01223 727961

1. BACKGROUND

- 1.1. The Committee, at its meeting held on 23rd June 2015, considered a report seeking certain new delegations to officers. Members requested further information on the background to the functions in respect of which officers were seeking delegations.
- 1.2. A general discussion also took place at the Committee on the Scheme of Delegation to Officers and, in particular the importance of keeping Local Members informed of decisions affecting their divisions.

2. DELEGATION – LEGAL POSITION

- 2.1. The legal powers to delegate are contained in Section 101 of the Local Government Act 1972.
- 2.2. Section 101 provides that a Council may arrange for the discharge of any of its functions by:-
 - A committee
 - A sub committee
 - An officer
 - Another local authority
- 2.3. If Council delegates to a committee, then the committee may in turn delegate to a sub-committee or to an officer.
- 2.4. If Council or a committee delegates a decision, then the body that delegates the decision still retains the legal capacity to make the decision.
- 2.5. Certain decisions may not be delegated, for example, setting the Council Tax and appointing the Chief Executive.
- 2.6. In an authority such, as Cambridgeshire that operates a Committee system, powers may not be delegated to an individual councillor, although authority may be delegated to an officer to take decisions, in consultation with a Member or Members.

3. NEED FOR DELEGATION

- 3.1. In common with all other local authorities, Cambridgeshire operates a system of delegated powers, with decision making being delegated to committees, sub-committees and officers, as appropriate.
- 3.2. In view of the thousands of operational decisions that need to be taken within the Authority every week, from offering school places to deciding on the appropriate care packages for elderly people, it is essential to the effective and efficient running of the organisation that responsibility for dealing with operational decisions is delegated to officers operating within the context of the agreed policy and budgetary framework. Delegation of operational decision taking to officers speeds up the decision making process since there is an inherent delay in dealing with items through the committee process. Moreover, operating a Scheme of Delegation, where operational decision making is delegated, enables Members to concentrate on strategic matters.

- 3.3. Any Scheme of Delegation needs to contain the appropriate checks and balances, to ensure that officers only act in accordance with policy and within budget and that appropriate consultation (including with Members) is undertaken.

4. CAMBRIDGESHIRE'S SCHEME OF DELEGATION AND SCHEMES OF AUTHORISATION

- 4.1. The Scheme of Delegation to Officers is set out in Part 3D of the Constitution (Responsibility for Functions):

http://www.cambridgeshire.gov.uk/info/20050/council_structure/288/councils_constitution

- 4.2. The general principles under which officers are required to work are set out in paragraph 2 of the Scheme. This includes specific conditions relating to the exercise of the delegated authority, limitations to the exercise of those powers and requirements relating to consultation with Members. These are set out in Appendix A for the Committee's information. Officers may only act in line with the Budget and Policy Framework and may not take key decisions, unless specifically delegated. In terms of consultation with Members, the Scheme provides that:

"Where an officer takes a decision under delegated authority on a matter which has significant policy, service or operational implications or is known to be politically sensitive, the officer shall first consult with the appropriate committee chairman/woman and vice-chairman/woman before exercising the delegated powers."

"When exercising delegated powers, officers shall ensure that local Members are kept informed of matters affecting their divisions."

- 4.3. The general principles also provide that:

"Chief Officers shall agree with the Chairman/woman and Vice-Chairman/woman of the relevant committee the nature and level of information the committee requires regarding the exercise of officers' delegated powers."

- 4.4. Within the Scheme of Delegation powers are delegated to the Chief Executive and to the Executive Directors and Directors.

- 4.5. The Scheme of Delegation provides that the Chief Executive and Chief Officers may, where they consider it necessary and expedient, authorise officers within their Directorates, to undertake functions on their behalf. These delegations must be maintained in Schemes of Authorisation and published on the Council's website.

http://www.cambridgeshire.gov.uk/info/20050/council_structure/288/councils_constitution

- 4.6. The Schemes of Authorisation contain conditions with regard to the exercise of delegated powers, including the requirement to act in accordance with the Budget and Policy Framework and other policies, plans and strategies and in line with the provisions of the Constitution. Moreover the Schemes provide that:

“An Officer authorised to exercise a delegated power under this scheme must consult such Members and officers as he/she considers appropriate and shall so consult where required to do so under this scheme of authorisation or where common sense and judgement suggest that this is appropriate, for example with the appropriate division Councillor where the action to be taken is likely to affect their division.”

5. PUBLICATION OF DELEGATED DECISIONS

- 5.1. New regulations, “The Openness of Local Government Bodies Regulations 2014”, require that certain decisions taken by officers under delegated powers must be published.
- 5.2. A written record must be kept of any decision taken by an officer of the Council:-
 - (i) under a specific express authorisation; or
 - (ii) under a general authorisation where the effect of the decision is to:
 - (a) grant permissions or licences;
 - (b) affect the rights of individuals;
 - (c) award contracts or incur expenditure which materially affects the body’s financial position.
- 5.3. There is local discretion as to the financial value of the decisions to be recorded as the regulations refer to decisions which “materially affects the body’s financial position. The Council, on the recommendation of this Committee, has set £250,000 as the appropriate level for Cambridgeshire.
- 5.4. Any such decisions are now published on the Council’s website. 10 decisions have been published since the new requirements were implemented at the end of April. Decisions have included the following:-
 - Economy and Environment: Agreement of Statement of common ground with Highways England;
 - Highways and Community Infrastructure: determination of traffic regulation orders/statutory notices where the completion of the statutory consultation process results in objections (in consultation with local Member (s);
 - General Purposes: contracts for the provision of energy saving and energy generation services.
- 5.5. Members may also be aware that the Planning Committee receives a summary of the planning applications that have been determined by the Head of Strategic Planning under delegated powers

6. CONCLUSION

- 6.1. This report outlines the conditions and limitations on the exercise of delegated powers by officers of the Council which are contained within the Scheme of Delegation and Schemes of Authorisation.
- 6.2. It will be noted that the Schemes already contain provisions relating to consulting/informing Members. This includes consulting with the relevant Chairman/woman in respect of a decision made under delegated authority on a matter which has significant policy, service or operational implications or which is known to be politically sensitive. Moreover when exercising delegated powers,

officers should ensure that local Members are kept informed of matters affecting their divisions.

- 6.3. At the last meeting of the Committee concerns were expressed that local Members are not kept sufficiently informed of matters affecting their divisions. It is therefore proposed that the Monitoring Officer should take appropriate steps to raise awareness of the requirements of the Schemes of Delegation and Authorisation in respect of consulting/informing local Members. This will include:

- A presentation at Corporate Leadership Team level;
- Preparation of a briefing note;
- Posting an article on the Daily Blog on CamWeb;
- Inclusion in staff induction.

Source Documents	Location
Constitution	http://www.cambridgeshire.gov.uk/info/20050/council_structure/288/councils_constitution

Part 3D - SCHEME OF DELEGATION TO OFFICERS

1. Introduction

This section describes the extent and nature of the authority delegated to officers to undertake functions on behalf of Cambridgeshire County Council. The delegations are made by either the Full Council or one of its committees.

.General Principles

The Chief Executive and the Chief Officers, where they consider it necessary and expedient, may authorise officers within their respective service Directorates to undertake functions on their behalf. If such authorisations are made, the relevant Chief Officer shall prepare and maintain a written schedule of authorisations to be available for inspection by the Monitoring Officer and published on the Council's website.

Where an officer listed in this Scheme of Delegation is absent for any period, the Chief Executive may nominate in writing another officer to act in his/her place during their absence and shall make a record of all such nominations.

The Chairman/woman of the relevant committee may request an officer not to exercise their delegated power in any particular case and, if so, a report will be taken to the next available meeting of this committee for consideration.

Chief Officers shall agree with the Chairman/woman and Vice-Chairman/woman of the relevant committee the nature and level of information the committee requires regarding the exercise of officers' delegated powers.

Chief Officers shall exercise their delegated powers in accordance with any requirements of the Chief Executive.

General Delegation

The Chief Executive and Chief Officers/Directors are authorised to discharge all the functions of the authority within their areas of responsibility as defined below and subject to the General Conditions and Limitations set out below.

Conditions Relating to the Exercise of Delegated Authority

The exercise of functions delegated to officers under this scheme must comply with:

- (i) any legal requirement or restriction
- (ii) any relevant provision in the Council's Constitution
- (iii) the Council's policy framework and any other plans and strategies approved by the Council
- (iv) the relevant in-year budget
- (v) the relevant officers' code of conduct
- (vi) the Council's Financial and Contract Procedure Rules
- (vii) the requirements of the Openness of Local Government Bodies Regulations 2014 and any supporting guidance
- (viii) all other relevant policies, procedures, protocols and provisions.

Limitations to the Exercise of Delegated Powers

Officers in the exercise of functions delegated by this scheme may not:

- i) make Key Decisions as defined in the relevant Council's Constitution unless it is specifically delegated to the officer. An officer making a Key Decision specifically delegated to him/her shall first consult with the Chairman/woman and Vice-Chairman/woman of the relevant committee before exercising such delegation.
- ii) change or contravene policies or strategies approved by the Council or its committees or joint committees in the absence of specific delegated authority to do so
- iii) create or approve new policies or strategies, in the absence of specific delegated authority to do so
- iv) take decisions to withdraw public services, in the absence of specific delegated authority to do so
- v) take decisions to significantly modify public services without consulting the appropriate committee chairman/woman and vice-chairman/woman before exercising the delegated power.

Consultation

Where an officer takes a decision under delegated authority on a matter which has significant policy, service or operational implications or is known to be politically sensitive, the officer shall first consult with the appropriate committee chairman/woman and vice-chairman/woman before exercising the delegated powers.

When exercising delegated powers, officers shall ensure that local Members are kept informed of matters affecting their divisions.