Part C

Responsibility for Functions

The Council's Scheme of Delegation
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LONDON BOROUGH OF BARKING AND DAGENHAM

SCHEME OF DELEGATION

1. Statutory Basis

1.1 The basis for delegation is contained within Section 101 of the Local Government Act 1972, Section 15 of the Local Government Act 2000, and the Local Authorities (Functions and Responsibilities) Regulations 2000.

1.2 Section 101 of the 1972 Act generally allows Councils to arrange for their functions to be carried out by a formal committee or an officer. Section 100G (2) requires Councils to keep a list specifying those powers which are exercisable by officers and their respective titles in each case. Section 112 requires Councils to appoint such officers as they think necessary for the proper discharge of their functions.

1.3 The Local Government Act 2000 requires Councils to be clear within their Constitution who is responsible for functions and where decision-making lies. This Scheme attempts to cover this as simply as possible.

2. Framework

2.1 In accordance with mandatory guidance issued by the Department of the Environment, Transport and the Regions associated with the Local Government Act 2000, the Council has agreed that the following principles should be applied to all decisions:

(a) proportionality (the action must be proportional to the desired outcome);
(b) due consultation and the taking of professional advice from employees;
(c) respect for human rights*;
(d) a presumption in favour of openness;
(e) clarity of aims and desired outcomes; and
(f) the options considered and the reasons for a particular choice will be explained when appropriate

2.2 Generally all decisions will also be consistent with the Council’s policy framework, relevant law, Contract Rules, Financial Rules, other relevant Rules, and any other requirements set out in this Constitution. This includes the Council’s Corporate Equalities and Diversity Policy Framework which means that all decisions must take into account any equalities and diversity issues, and must not discriminate on the grounds of an individual's or group's race, gender, disability, age, faith or sexuality. Decision making should also address any health related issues.

2.3 [*Decisions taken by the Council, a councillor or an employee acting as a tribunal or in a quasi-judicial manner, or determining/considering (other than for the purposes of giving advice) the civil rights and obligations, or the criminal responsibility, of any person, will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights].
2.4 The Council's current Policy Framework is the Council's aims as expressed from time to time in its strategic directions:

(a) The Community Plan
(b) The Council Plan
(c) Current strategies and policies of the Council

2.5 A record of all policies is kept and updated by each Corporate Director respectively, from whom copies will be made available on request to all Councillors, employees and the public.

3. Purpose of the Scheme

3.1 To define those decisions to be taken by Councillors at formal meetings within the political structure (Member meetings).

3.2 To identify that all other decisions will be taken by Chief Officers (or nominated post holders as listed), either collectively or individually, and to define these accordingly.

3.3 To define the meaning of "Key Decisions" in relation to Regulations made under the Local Government Act 2000.

3.4 To define the process by which decisions are monitored to ensure transparency and accountability.

3.5 To define 'Proper Officer' responsibilities.

4. Key Decisions

4.1 Key decisions are those likely to:

(a) involve significant expenditure or savings and/or

(b) have a significant effect on the community

4.2 In relation to (a) councils have to set thresholds, above which they regard decisions regarding expenditure or savings as "significant" and, therefore, Key. This Council's threshold is £200,000.

4.3 In relation to (b) a decision is, by law, a Key Decision if it is likely to have a significant impact on two or more wards. However in line with Government guidance this Council treats a decision as “key” if it is likely to have a significant impact on one or more wards. This Council has a two stage process for determining whether or not a particular decision is likely to have such an impact and is therefore a key decision: the officer proposing the decision makes an initial assessment and the Chief Executive makes a final judgement.

4.4 Where a key decision is delegated to officers, and when they make a key decision, they will produce a written statement which includes:

(a) details of the decision,
(b) the reasons for it, and  
(c) alternative options considered and rejected at the time the decision was taken

4.5 Subject to the general provisions relating to confidential and exempt information, the written statement will be prepared at the time the decision is taken, made available for public inspection and included in a Register(s) of Decisions to be kept and updated by Chief Officers.

5. **Matters which cannot be delegated**

5.1 Certain functions may not, by law, be delegated. As such, they must be dealt with by the Assembly.

5.2 These are listed in Section A of this document.

6. **Delegations to Member meetings**

6.1 The powers which are delegated from the Assembly to other Member meetings are detailed in Sections A – N.

7. **Delegation to Chief Officers**

7.1 All matters not reserved to Member-level meetings are delegated to the Chief Executive or the appropriate Corporate Director (or nominated postholders) within the service areas assigned to them as set out in Sections O – T.

7.2 The Scheme does not define how each decision should be taken by Chief Officers, nor does it attempt to list incidental matters which are a part of their everyday management functions.

7.3 The delegation of an authority to a Chief Officer includes the exercise of that authority on his/her behalf by another employee under his/her supervision. Chief Officers are responsible for maintaining a comprehensive list of authorised postholders in their department, which also identifies specific areas of responsibility. These lists are open to inspection by the public.

7.4 Delegations to Chief Officers are split into two parts - powers that can be exercised by (i) all Chief Officers, and (ii) individual Chief Officers.

7.5 The Chief Executive will clarify any delegation to officers if necessary.

8. **Changes in Legislation**

8.1 Any delegation or authority specified in this Scheme (including Proper Officer functions), by reference to any Act or any associated Regulations (e.g. a statutory instrument), includes references to any related re-enactment, consolidation, modification, variation or amendment.

9. **Proper Officer Function**

9.1 The concept of "Proper Officers" to perform certain tasks or carry out various formal or administrative functions differs from that of delegated powers. Delegated powers
may involve the exercise of discretion or choice; the functions of a Proper Officer are generally prescribed by legislation.

10. Constitution

10.1 This Scheme forms part of the Council's Constitution and should be read in conjunction with other Parts.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)