

## E. Scheme of Delegation of Functions to Officers and Schedule of Proper Officers

### 1. Preamble

The Authority approves strategies and policies which determine the framework in which operational decisions are made. Strategic overarching decisions are reserved to the Authority for decision (such as approving the budget and the capital programme). Officers implement decisions made by the Authority (or any decision making committee of the Authority).

Officers also take measures to carry out these policies and decide day-to-day operational matters, within the framework of these decisions. In doing so, decision-making by officers' is subject to other control measures. These include:-

- The Constitution, including Procurement and Contract Rules and Financial Regulations,
- an Officers' Code of Conduct, a gifts and hospitality policy and the Conflicts of Interest Policy,
- organisational values,
- an anti-fraud, bribery and corruption policy, and
- internal audit and risk management arrangements.

When taking a officer decision under this scheme of delegation the Officer must determine, having regard to the implications of the decision, whether further consultation with other officers and/or Members is appropriate, and should have regard to any guidance issued.

### 1.2. Introduction

21 This Scheme of Delegation to Officers ('Scheme') and Schedule of Proper Officers for various functions have been prepared in accordance with section 101, Local Government Act 1972, which enables the Authority to delegate any of its functions to its officers. The Authority is also required by section 100G of this Act to maintain a list for public inspection specifying those powers of the Authority which, for the time being, are exercisable from time to time by officers of the Authority, and stating the title of the officer in question by whom the powers are exercisable.

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~~'Chief Officers' in the context of this Scheme means the Head of Paid Service, the Finance Director, and the Monitoring Officer of the Authority and the Chief Executives of the Constituent Councils.~~

422 'Directors' in the context of this Scheme means [ Director of Business and Skills ] and [ ] and any other person designated as such by the Head of Paid Services.

4323 The delegated powers of ~~Chief~~ Officers set out in this Scheme may be

exercised by other officers authorised by the ~~Chief~~ Officer with the delegated power to act on their behalf and in their name, provided that administrative procedures are in place to record the authorisation and monitor decisions taken.

1.4.24 The exercise of delegated powers by officers is required to be in accordance with:-

1.4.12.4.1 statute or other legal requirements, including the principles of public law, the Human Rights Act 1998, statutory guidance and statutory codes of practice;

1.4.22.4.2 this Constitution, including the Authority's Rules of Procedure and Financial Regulations currently in force;

1.4.32.4.3 the revenue and capital budgets of the Authority, subject to any variation thereof which is permitted by the Authority's Financial Regulations; and

1.4.42.4.4 any policy or direction of the Authority, or any other Committee acting in exercise of powers delegated to that Committee by the Authority.

1.5.25 Officers may not exercise delegated powers where: –

1.5.12.5.1 the matter is reserved to the Authority by law or by the Authority's Constitution;

1.5.22.5.2 the matter is a function which cannot by law be discharged by an officer;

1.5.32.5.3 the Authority, or a Committee, Sub-Committee or Joint Committee to which the Authority is a party, has determined that the matter should be discharged otherwise than by an officer; or

1.5.42.5.4 the Head of Paid Service has directed that the officer concerned should not exercise a delegated function in specified circumstances.

1.6.26 Before exercising delegated powers, particularly on matters involving the reputation of the Authority, officers ~~must~~should consider the advisability of consulting the Head of Paid Service and/or the Chair of the Authority.

1.7.27 Where, in relation to an item before the Authority, or a Committee, a ~~Chief~~ Officer is given specific authority to determine a particular matter, that officer should ensure that there is an appropriate audit trail to

evidence such determination.

### 2.3. General Delegations to ~~all~~ Statutory Officers/Directors

The functions set out below are delegated to all Statutory Officers and Directors unless limited by the individual delegation

*Routine Management*

213.1 In relation to Statutory Officers and Directors~~The the~~ day to day routine management, supervision and control of services provided for the Authority by staff under their control in accordance with the Rules of Procedure and Financial Regulations of the Authority.

*Contracts ~~/land~~ and Accounts*

32 In relation to Statutory Officers~~T~~ the disposal of surplus or obsolete Authority ~~equipment~~ assets to the person submitting the highest quotation up to a limit of £100,000 in value and the leasehold disposal of land leased for revenue generative purposes.

223.3 In relation to Statutory Officers the acquisition of land for the purpose of delivering any project in the approved capital programme and budget.

233.4 In relation to Statutory Officers and Directors~~The the~~ acceptance of a tender or quotation:-

(a) for the supply of goods, materials, or services for which financial provisions has been made in the Authority's Revenue ~~Budget~~ Budget up to a limit of either £100,000 in value for any one transaction or, in the case where the matter is not within the remit of a Thematic Board, £200,000 in value for any one transaction (as may be varied from time-to-time subject to the delegations afforded to the Finance Director through the Financial Regulations or is fully funded by any grant that is received as a result of a previously approved funding bid submission), or

(b) for building and civil engineering works provided that the value of the tender is within the estimate previously approved by the Authority as part of the capital programme and such expenditure is approved by the Finance Director;

~~(a) for building and civil engineering works provided that the value of the tender is within the estimate previously approved by the Authority as part of the capital programme and does not exceed £250,000;~~

Provided that where:-

- where—the tender or quotation is in accordance with the Authority’s Contracts Procedure Rules and is either the most economically advantageous tender decided by reference to pre-determined weighted award criteria or the subject of a waiver of the Authority’s Contracts Procedure Rules granted in accordance with those Rules;
- the decision relates to the delivery of the agreed business plan for that business area;
- the decision accords with any officer decision making guidance issued to Officers;
- where the decision is a key decision or may have policy or strategic implications, the Officer exercising the delegation will, before the decision is taken, consult with the relevant Thematic Board Chair, or if it does not fall within a Thematic Boards remit, with the Mayor (NB, the provisions of part 5B of this constitution apply to Key Decisions taken by Officers); and
- once the decision has been made the Officer completes the prescribed officer decision form and complies with the transparency requirements of The Openness of Local Government Bodies Regulations 2014.
- Officer decisions over £100,000 in value will be reported to the next available MCA as part of the Delegated Authority report.

Staff and resources

35 In relation to Statutory Officers and Directors, to appoint officers to posts within the Authority’s staffing structure, in accordance with the Authority’s recruitment and selection procedure;

36 With the exception of

- granting voluntary redundancy requests, and
- releasing preserved pension benefits on ill health grounds,

to determine any employment issue arising in respect of an individual officer in accordance with agreed procedures and the relevant conditions of service.

### **3.4 Delegations to the Head of Paid Service**

The functions set out below are delegated to the Head of Paid Service

3.4.1 To discharge the functions of the Head of Paid Service in relation to the Authority as set out in section 4, Local Government and Housing Act 1989. (The duties of the Head of Paid Service are to report to the Authority where necessary setting out proposals with

respect to the co-ordination of the Authority's functions, the number and grades of staff required and the organisation), ~~appointment and proper management of the Authority's staff.~~)

~~324.2~~ 324.2 To discharge any function of the Authority which has not been reserved to the Authority under Part 4, section A of this Constitution or specifically delegated to another officer or Committee, and to direct any officer not to exercise a delegated function in special circumstances unless they are required to do so by law.

~~334.3~~ 334.3 To take any action which is required as a matter of urgency in the interests of the Authority, after consultation (where practicable) with the Chair of the Authority or the Chair of an appropriate committee, on behalf of and within the powers and duties of the Authority or its Committees (and when required in agreement with the Chair of the Scrutiny Committee as required by Part 4 section D (Scrutiny)), all such action to be reported to the next meeting of the Authority or Committee.

~~344.4~~ 344.4 To take preliminary steps to protect the rights and interests of the Authority in relation to any Bill or Statutory Instrument or Order in Parliament, subject to consultation with the Chair of the Authority.

~~4.14.5~~ 4.14.5 To conduct before either House of Parliament any proceedings (including the retention of Parliamentary Agents and Counsel) connected with the passage of any Private Bill which the Authority has resolved to promote or oppose, including the negotiation and agreement of amendments to any such Bill, and the negotiation and approval of any terms, agreement or undertaking offered in consideration of the Authority not opposing any Private Bill.

~~354.6~~ 354.6 To nominate, appoint and remove, in consultation with the Chair and Vice Chairs of the Authority, Authority representatives on the boards of companies, trusts and other bodies, and to agree constitutional arrangements for such companies, trusts and other bodies and give any necessary consents required within relevant constitutions.

~~364.7~~ 364.7 To provide a comprehensive policy advice service to the Authority ~~and the Transport Committee~~ and in particular to advise on the Authority's plans and strategies, ~~including the sustainable community strategy and the local transport plan.~~

~~374.8~~ 374.8 To control and co-ordinate press and media relations, the organisation of press conferences, publicity and public relations

within prescribed policy, including approval of the issue of all official Authority publicity and official publications.

~~384.9~~ Where the Authority is a member of any company, to be the authorised representative of the Authority as such member or designate who should be such representative.

~~39~~ To authorise the attendance of officers at conferences or seminars which are appropriate to the work of the Authority and within any policy framework from time to time laid down by the Authority.

~~3104.10~~ To approve the provision of reasonable hospitality to representatives of joint authorities, local authorities, organisations etc. visiting the Authority where the proposed expenditure in any one case does not exceed £100.

#### **4.5 Delegations to the Finance Director**

The functions set out below are delegated to the Finance Director

~~415.1~~ To effect the proper administration of the Authority's financial affairs, particularly in relation to financial advice, procedures, records and accounting systems, internal audit and financial control generally.

~~425.2~~ The taking of all action required in relation to the Authority's treasury management (borrowing, investment and financing arrangements) subject to the submission to the Authority of an annual report of the Finance Director on treasury management activities in accordance with CIPFA's Code of Practice for Treasury Management & Prudential Codes.

~~435.3~~ To effect all insurance cover required in connection with the business of the Authority and to settle all claims under such insurances arranged for the Authority's benefit.

~~445.4~~ The preparation of manuals of financial and accounting procedures to be followed by all Officers working for and on behalf of the Authority.

~~45~~ To accept a grant offer of up to £100,000.00 subject to being satisfied with all the terms and conditions imposed by the grant awarding body.

~~4.65.5~~ ~~For grant offers over £100,000.00~~ to accept grant offers on behalf of the Authority, subject being satisfied with all the terms and conditions imposed by the grant awarding body and subject to either the submission of the funding application for grant or the grant offer having been approved by the Authority or Thematic ~~Executive~~ Board (in accordance with the Scheme of Delegation set out in Part 4 Section F) as appropriate.

~~4.75.6~~ To submit all claims for grant to the UK Government, the European Union (EU) or any other source of funding.

~~4.85.7~~ To make all such banking arrangements on behalf of the Authority as the Finance Director considers necessary, including arrangements for issuing cheques.

~~4.95.8~~ To monitor capital spending and submit regular reports to the Authority.

~~4.105.9~~ In relation to revenue expenditure under the control of officers, to consider the reports of those officers.

~~4.115.10~~ The collection of all money due to the Authority, and the writing-off of bad debts.

~~4.125.11~~ To supervise procedures for the invitation, receipt and acceptance of tenders.

~~4.135.12~~ To administer the scheme of Members' allowances.

~~4.145.13~~ To discharge the functions of the 'responsible financial officer' under the Accounts and Audit (England) Regulations 2011 including the requirement under Regulation 8(2) to sign and date the statement of accounts, and certify that it presents a true and fair view of the financial position of the Authority at the end of the year to which it relates and of the Authority's income and expenditure for that year.

~~4.155.14~~ To discharge the functions of the Authority under the Accounts and Audit (England) Regulations 2011 (with the exception of regulations 4(3), 6(4) and 8(3)).

~~4.165.15~~ To sign certificates under the Local Government (Contracts) Act 1997.

~~4.175.16~~ To be the officer nominated, or to nominate in writing another officer, as the person to receive disclosures of suspicious transactions for the purposes of the Proceeds of Crime Act 2002 and any regulations made thereunder.

4.185.17 To determine an amount (not exceeding the sterling equivalent of 5,000 euros) being the maximum sum which the Authority will receive in cash without the express written consent of the Finance Director.

4.195.18 To exercise the responsibilities assigned to the Finance Director in the Financial Regulations and the Contracts Procedure Rules.

## 5.6 Delegations to the Monitoring Officer

Under the provisions of the Local Government and Housing Act 1989, the Authority shall appoint a Monitoring Officer. The functions of the Monitoring Officer shall be as follows:-

5.16.1 Should at any time it appear to the Monitoring Officer that any proposal, decision or omission by the Authority has given rise to, or is likely to give rise to

unlawfulness or maladministration, s/he will prepare a report to the Authority with respect to that proposal, decision or omission.

5.26.2 The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support on this issue to the Authority. The Authority has delegated to the Monitoring Officer the following powers to deal with matters of conduct and ethical standards in accordance with the requirements of Part 1 Chapter 7 of the Localism Act 2011:-

- (a) To act as the Authority's Proper Officer to receive complaints that Members have failed to comply with the Authority's Code of Conduct for Members;
- (b) To determine, after consultation with the Independent Person (as defined in s.28 Localism Act 2011) and in accordance with the Authority's arrangements for dealing with complaints that Members have failed to comply with the Authority's Code of Conduct for Members ('the Authority's Arrangements'), whether to reject, informally resolve or investigate a complaint;
- (c) To seek informal resolution of complaints that Members have failed to comply with the Authority's Code of Conduct for Members wherever practicable;
- (d) To arrange for the appointment of an Investigating Officer to investigate



a complaint where the Monitoring Officer (in consultation with an Independent Person) determines that a complaint merits formal investigation;

- (e) To issue guidance to be followed by an Investigating Officer on the investigation of complaints;
- (f) To confirm, after consultation with an Independent Person and in accordance with the Authority's Arrangements, an Investigating Officer's finding of no failure to comply with the Authority's Code of Conduct for Members;
- (g) Where an Investigating Officer's report finds that the subject Member has failed to comply with the Authority's Code of Conduct for Members, to determine, after consultation with the Independent Person and in accordance with the Authority's Arrangements, either to seek a local resolution or to send a matter for local hearing.

*Authority's Register of Member's Interests*

- 5.3. To prepare and maintain a Register of Authority Members' Interests (and LEP Board Members Interests) to comply with the requirements of the Localism Act 2011 and the Authority's Code of Conduct for Members, and ensure that it is available for inspection and published on the Authority's website as required by the Act.

*Dispensations*

- 5.4 To grant dispensations from section 31(4) of the Localism Act 2011 in consultation with the Independent Person if, having had regard to all relevant circumstances, the Monitoring Officer:-
  - (a) considers that without the dispensation the number of persons prohibited by section 31(4) of the Localism Act 2011 from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
  - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or
  - (c) considers that granting the dispensation is in the interests of persons living in the Authority's area; or

- (d) considers that it is otherwise appropriate to grant a dispensation.
- 5.5 The Monitoring Officer may provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework issues to all members of the Authority and its committees.
- 5.6 The Monitoring Officer may institute, conduct, prosecute and defend any legal proceedings on behalf of the Authority, as may be necessary to protect and promote the Authority's interests in accordance with any general policy laid down by the Authority, subject to consultation with the Chair in any case where the matter is of significance to the Authority's reputation or where the Authority is to appeal to the Court of Appeal or the Supreme Court.
- 5.7 The Monitoring Officer may settle any actual or threatened legal proceedings, where s/he considers this to be appropriate and in the interests of the Authority.
- 5.8 The Monitoring Officer may instruct Counsel and professional advisers, where s/he considers this to be appropriate.
- 5.9 The Monitoring Officer may give undertakings on behalf of the Authority.
- 5.10 The Monitoring Officer shall supervise the preparation and sealing or signature of legal documents.
- 5.11 The Monitoring Officer may authorise other officers to seal documents in accordance with Article 13.5 of the Authority's Constitution, or to sign documents which are not required to be under seal.
- 5.12 The Monitoring Officer is authorised to complete all property transactions and contractual arrangements where terms have been agreed by the Authority or a Committee or a Statutory Officer acting under the Scheme of Delegation.
- 5.13 The Monitoring Officer shall determine exemptions under Section 36, Freedom of Information Act 2000.
- 5.14 The Monitoring Officer is authorised to accept on behalf of the Authority the service of notices, orders and legal proceedings.
- 5.15 Under Section 223, Local Government Act 1972 the Monitoring Officer may authorise officers who are not admitted solicitors to appear in the Magistrates' Court on behalf of the Authority.

- 5.16 The Monitoring Officer shall be empowered to take any action which is required as a matter of urgency in the interests of the Authority, after consultation (where practicable) with the Chair of the Authority or the Chair of an appropriate committee, on behalf of and within the powers and duties of the Authority or its Committees (and where required of the Scrutiny Committee as required by Part 4 section D (Scrutiny)). All such action shall be reported to the next meeting of the Authority or Committee.

## **6.7 Schedules of Proper Officers**

**6.7.1** Section 112(1), Local Government Act 1972, provides that the Authority shall appoint such officers as it thinks necessary for the appropriate discharge by the Authority of such of its functions as fall to be discharged by them.

**6.7.2** There are a number of specific references in the Local Government Acts 1972 and 1985 which call for functions to be undertaken by what is termed the 'Proper Officer'. The following Schedules list such references and identify the Chief Officers responsible for their discharge:-

### **FINANCE DIRECTOR**

The Finance Director to the Authority is appointed the Proper Officer in relation to the following:-

#### Local Government Act 1972

Section 115 (2)	Receipt of money due from Officers
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#### Local Government Act 1985

Section 73	Administration of the financial affairs of the Authority
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### **MONITORING OFFICER**

The Monitoring Officer to the Authority is appointed the Proper Officer in relation to the following:-

#### Local Government Act 1972

Section 146 (1) (a) and (b)	Declaration and Certificates with regard to securities
Section 225 (1)	Deposit of Documents
Section 229 (5)	Certifications of photographic copies of documents
Section 234 (1) and (2)	Issuing and signing of formal notices
Section 236 (9) and (10)	Serving copies of Byelaws
Section 238	Certification of Byelaws

## HEAD OF PAID SERVICES

The Head of Paid Services to the Authority is appointed the Proper Officer in relation to the following:-

### Local Government Act 1972

Section 100B (2)	Determination of those reports which should be available for public inspection prior to a meeting of the Authority, and any Committee of the Authority and those which are likely to be heard in private and consequently which should not be released to the public
Section 100B (7)	Provision of documents to the press, additional to Committee reports
Section 100C (2)	Preparing written summaries of proceedings

Section 100D (1)	Making arrangements for lists of, and background papers to reports, to be made available for public inspection.
Section 100F (2)	Determination of documents disclosing exempt information which may not be inspected by Members
Schedule 12 para 4 (2) (b)	Signature of Summonses to the Authority
Schedule 12 para 4 (3)	Receipt of notices regarding addresses to which Summonses to meetings of the Authority are to be sent

## GENERAL

All Officers in whose name reports are submitted to the Authority are appointed the proper officers in relation to the following:-

Local Government Act 1972

Section 100 D (1) (a)	Compilation and retention of lists of background papers and copies of the relevant documents and reports
Section 100 D (5)	Identifying and determining what are background papers

## LOCAL ENTERPRISE PARTNERSHIP

The Authority acts as the accountable body for all funds awarded to the Local Enterprise Partnership (LEP). The LEP determines the use of these funds with the Authority responsible for testing vfm ensuring legal compliance and good governance practice. As specified in the LEP Governance and Transparency Guidance (2017) both the Head of Paid Service and the Finance Director have a designated formal role to undertake on behalf of the LEP. The scope of this role requires the officers to escalate any concerns with regard to the governance of the LEP programme directly to the relevant Government department.