

PREAMBLE - SCHEME OF DELEGATIONS TO OFFICERS

1. SCOPE

- 1.1 The functions which Dartford Borough Council is responsible for are either executive or non-executive. **Non-executive** functions are those specifically required by statute or designated by the Council i.e. the General Assembly of the Council (GAC) to be non-executive functions. These will be exercised by either the GAC, or by committees, boards, panels appointed by the GAC, or by officers. **Executive** functions are all those functions which will be exercised by either the Cabinet collectively, or a committee or sub-committee of the Cabinet or by officers.
- 1.2 This Scheme of Delegations to Officers shall be interpreted in accordance with the relevant provisions of the Local Government Act 2000, in particular Section 13 (functions which are to be the responsibility of the executive) and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).
- 1.3 Any arrangements made by virtue of this Scheme of Delegations are not to prevent the GAC, Cabinet, committee or board by whom the arrangements are made, from exercising those functions.
- 1.4 This Scheme of Delegations has been approved in its totality by both the GAC and by the Cabinet and no delegation contained within it shall be treated as invalid by reason of it being incorrectly classified as a GAC function instead of a Cabinet function or vice versa.
- 1.5 This Scheme may be amended from time to time in any manner as is considered appropriate:
- (1) in relation to Council functions:
 - (a) by the GAC; or
 - (b) by the relevant committee, sub-committee or board insofar as it relates to functions discharged by that committee, sub-committee or board; or
 - (c) by Directors under delegated authority.¹
 - (2) in relation to executive functions:
 - (a) by Cabinet; or
 - (b) by Directors under delegated authority².

2. GENERAL PRINCIPLES

- 2.1 Under this Scheme, the GAC, in pursuance of powers under Sections 101, 151 and 270 of the Local Government Act 1972 and the Cabinet, in pursuance of powers under Sections 14(3)(b) & (5) of the Local Government Act 2000 and all other powers enabling, delegates to the Directors and service heads, to the extent of their respective powers, the functions referred to in this Scheme at Annexes 1 and 2.
- 2.2 This Scheme delegates powers and duties within broad functional descriptions and

¹Annual Meeting 25.05.11 Min.No.25 (Managing Director)/Directors - SO38 8 June 2020

²Cabinet 21.04.11 Min.No.167/Directors – 8 June 2020

includes powers and duties under all legislation present and future within those descriptions and all powers and duties including those relating to the employment of staff incidental to that legislation, as well as authorising the affixing of the Common Seal, the institution, defending or participating in any legal proceedings in any case where such action(s) is necessary, to give effect to decisions of the GAC and the Cabinet or in any case, where it is considered that such action is necessary, to protect the Council's interests.

- 2.3 This Scheme includes the power for the GAC and the Cabinet to delegate functions to officers of other local authorities and to appoint or designate any officer as an 'authorised officer', 'inspector', 'person duly authorised' or similar, under any of the legislation or functions specified in this Scheme.
- 2.4 All powers delegated under this Scheme shall, so far as the power itself is exercisable by the GAC only under an agency agreement pursuant to Section 101 of the Local Government Act 1972 or by the Cabinet pursuant to Section 19 of the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), be exercised in accordance with the terms of such agency agreement.
- 2.5 The action of an officer under a delegated power shall be deemed to be the act of the GAC or the Cabinet (as the case may be).
- 2.6 Nothing in these delegated powers shall restrict the powers or duties placed upon any officer by statute.
- 2.7 The exercise of the powers and functions delegated by this Scheme shall without prejudice to any specific delegation or authorisation set out and subject to any express conditions/exclusions/limitations/notes specified, be taken to include power to do anything incidental or conducive to the discharge of such functions, including administrative and procedural acts, exercising discretion, making determinations and imposing, amending, deleting, revoking, enforcing conditions, limitations, restrictions or other terms on any approval, consent licence, permission or registration.
- 2.8 Any reference to any Act, Rule, Order or Regulation shall be taken as including a reference to that Act, Rule, Order or Regulation as re-enacted replaced or modified from time to time. References to any statutory provision shall include a reference to any subordinate or secondary legislation made under or taking effect under it from time to time.

3. LIMITATIONS

- 3.1 Any exercise of delegated powers under this Scheme or any other scheme of delegation shall comply with:
 - (a) any statutory restrictions;
 - (b) the Constitution;
 - (c) the following Standing Orders:
 - Standing Order 38 - Delegation of Urgent and Routine Matters
 - Standing Order 43 - Disposal of Property
 - Standing Orders 46 - 51 - Access to Information Procedure Rules
 - Standing Orders 52 - 56 - Budget and Policy Framework Procedure Rules
 - Standing Orders 59 - 64 - Officer Employment Procedure Rules
 - (d) Contracts Standing Orders;
 - (e) Financial Regulations;
 - (f) the budget and policy framework and any other plans and strategies approved by the GAC or Cabinet;
 - (g) the Employee Code of Conduct, the Member Code of Conduct or such other codes as may be in place from time to time;

- (h) the Code of Practice on Local Authority Publicity;
 - (i) the agreed arrangements for recording decisions; and
 - (j) any additional conditions imposed either by the GAC, Cabinet or by statute or any statutory code of conduct.
- 3.2 The exercise of the powers delegated under this Scheme or any other scheme of delegation involving the incurring of expenditure, is subject to there being sufficient approved provision within budgets to cover the expenditure.
- 3.3 Before exercising any delegated powers, consideration shall be given to:
- (a) human rights implications under the Human Rights Act 1998, to ensure that individual rights and freedoms are consciously balanced with the GAC's and Cabinet's obligations and duties;
 - (b) the public sector equality duty under the Equality Act 2010, to ensure that equality considerations are embedded into day-to-day decision-making.
- 3.4 To ensure that Councillors have adequate opportunity to comment on and be involved in the decision-making process where appropriate, the exercise of delegated powers under this Scheme or pursuant to a GAC or Cabinet resolution, may require that the delegation be exercised in consultation with the Cabinet Chairman or Portfolio Member etc.

4. MATTERS NOT DELEGATED

- 4.1 This Scheme does not delegate any matter:
- (a) reserved by law or by the Constitution to the GAC or the Cabinet;
 - (b) which may not by law, be delegated to an officer;
 - (c) any matter expressly reserved to a committee, board or panel by the Constitution, Standing Orders or Financial Regulations, or withdrawn from delegation by this Scheme or by a committee, board or panel;
 - (d) any power to make an order for the compulsory acquisition of land;
 - (e) any power to acquire land in advance of requirements;
 - (f) any power to confirm any order, or to issue or grant any permission, consent, licence or other determination, which is the subject of a statutory right of objection that has been duly exercised.

5. DELEGATIONS

- 5.1 For the purposes of this Scheme, the GAC and Cabinet arrange for their respective functions (Annexes 1 and 2) to be discharged by Directors and service heads.
- 5.2 The delegations apply to those functions, which have not, by virtue of the Constitution and/or Standing Orders or any other instrument, been reserved to the GAC or Cabinet and any committees, sub-committees, panels or boards thereof.
- 5.3 Delegations set out in this Scheme are in addition to any delegations referred to in the Constitution and/or Standing Orders.
- 5.4 Directors and service heads are delegated all those powers necessary to act within this Scheme, including the expenditure of money within the financial limits referred to in the Scheme of Delegations to Officers.
- 5.5 Apart from those powers set out in this Scheme which have been generally or specifically delegated to Directors and service heads, any remaining functions which have not been specifically reserved to the GAC, Cabinet or any committees, sub-committees, boards or panels thereof, are delegated to Directors and service heads.
- 5.6 In respect of any matter falling within the parameters of this Scheme, Directors may further delegate to and authorise officers by designation, to exercise any of the

powers delegated to them under this Scheme or any other applicable scheme of delegation, in so far as is legally permissible and in so far as not already delegated by virtue of the Constitution and/or Standing Orders. Such further delegations and authorisations shall be recorded in a sub-delegations scheme (the 'Sub-delegations'). Directors may at any time arrange for the transfer/reallocation of functions to, from and within their respective Directorates, as they consider appropriate.

- 5.7 Directors may further authorise officers by designation, within their Directorates to exercise any of the powers delegated to them under this Scheme or any other applicable scheme of delegation, in so far as is legally permissible and in so far as not already delegated by virtue of the Constitution and/or Standing Orders. Such further authorisations shall be recorded in the Sub-delegations.
- 5.8 All delegated powers shall be exercised in the name of the relevant Director but this shall be without prejudice to the right of an officer to exercise such powers in their name where professional standards so require e.g. the issue of a report on the Council's land transactions by the Council's qualified valuer or the institution of legal proceedings by the Head of Legal Services.

6. Statutory Officers

- 6.1 The functions of the Head of Paid Service, Monitoring Officer and Section 151 Officer are set out in Articles 12 and 14 of the Constitution. So far as not specified by legislation, the Head of Paid Service, Monitoring Officer and Section 151 Officer are delegated all powers necessary to carry out their statutory functions.

7. Proper Officer functions

- 7.1 Pursuant to Section 270(3) of the Local Government Act 1972, Directors are appointed 'proper officers' as described in specified sections of relevant Acts of Parliament or regulations. Directors may nominate or designate an officer to act as proper officer or deputy proper officer for any specified functions. Any such nomination or designation shall be recorded in the Sub- delegations.

Adopted by Cabinet – 21 April 2011 [Min.No.167]
Adopted at the Annual Meeting – 25 May 2011 [Min.No.25]
Adopted by Cabinet – 7 September 2017 [Min.No.52]
Adopted by the GAC – 20 November 2017 [Min.No.50]
Reviewed under delegated authority- 15 June 2020
Reviewed and adopted by Cabinet -22 July 2021 [Min. No.34]
Reviewed and adopted by the GAC – 26 July 2021[Min.No.37]