

Body: **AUDIT AND GOVERNANCE COMMITTEE**

Date: **25 June 2014**

Subject: **Arrangements in place for exercising delegations to officers**

Report Of: **LAWYER TO THE COUNCIL AND MONITORING OFFICER**

Ward(s) All

Purpose To assist the Audit and Governance Committee in fulfilling its obligation to oversee effective governance arrangements.

Recommendations: That the Committee note the information supplied here regarding the structures maintained at this authority for ensuring that a) information is published regarding the powers delegated to officers and that b) the officers to whom those powers are sub-delegated are aware where their authority comes from and the limits of that authority.

Contact: Victoria Simpson, Lawyer to the Council and Monitoring Officer, Telephone 01323 415018 or internally on extension 5018.
E-mail address: victoria.simpson@eastbourne.gov.uk

1.0 Background

- 1.1 Members are familiar with the change programme initiated at Eastbourne Borough Council in order to improve efficiency and customer service in response to the significant ongoing financial pressures on local authorities. One of the effects of Future Model, which is now in phase two, has been to create new officer roles such as the posts within Customer First. This has also created flatter structures of accountability.
- 1.2 In a context of change, the need to ensure that officers understand the extent of the powers delegated to them and the limits on their exercise of those powers is paramount. This is important to ensure that the authority's actions are not open to challenge.
- 1.3 The need to ensure transparency of decision-making so far as stakeholders are concerned is also of relevance.

2.0 Legal Context

- 2.1 Local authorities are creatures of statute and are invested by law with certain powers. The means by which authorities may exercise those powers is governed by part II of the Local Government Act 2000 and the regulations made under it. This legislation provides for the discharge of a local authority's functions by the executive body – at this authority, Cabinet - unless those functions are specified as functions that are not to be the responsibility of the authority's executive.

2.2 Powers may be delegated from Cabinet or Council to be exercised either by a Committee (or Sub Committee) made up of members or by individual designated officers. Either way, powers must always be exercised both in accordance with the authority's policies and procedures and also within the terms of any limitations or consultation requirements imposed at the time of the delegation.

2.3 Where a delegation is made to an individual Chief Officer, that officer may sub-delegate to other officers, this as long as they do so in accordance with any limitations or consultation requirements which were imposed on their power. The fundamental principle is the same: while the power must be exercised in accordance with the authority's policies and procedures, it must, crucially, have first been delegated appropriately both initially and when cascaded down.

3.0 The Scheme of Delegations to Officers

3.1 Full Council delegates to chief and other officers a raft of powers on an annual basis via the Scheme of Delegations to Officers, which is published in the authority's Constitution. These delegations assist the authority in discharging its day to day functions effectively and with clarity. The Scheme reflects the authority's responsibility under S100G of the Local Government Act 1972 to maintain a list open for public inspection of those powers of the council which are exercisable by officers of the council for periods in excess of six months.

3.2 The Scheme's inclusion in the Constitution is designed to ensure clarity in the exercise of powers in the functions for which chief officers have responsibility. The full Scheme of Delegation to Officers is available on the authority's website at: [Sch of Dels to Officer May 2014](#)
So too are executive decisions made by officers, a record of which must now be published by the authority in accordance with legislative requirements which form part of the Coalition's transparency agenda.

3.3 The Scheme of Delegations was substantively revised and then approved by annual Council on 7 May 2014 as a result of the changes to the senior management team's responsibilities which occurred as part of phase 1 of Future Model. The Scheme was again reviewed and amended on 7 May 2014 to update it in response to legislative change.

4.0 The list of sub-delegations maintained by the Deputy Chief Executive

4.1 The sub delegation of powers from Chief Officer level down is necessary to ensure the smooth running of the organisation. Eastbourne Borough Council's Constitution provides that 'A copy of any sub-delegation or its revocation shall be provided to the Deputy Chief Executive within five working days. The Deputy Chief Executive shall maintain a central register of sub-delegations and the current list of sub-delegations shall be shown on the intranet and be available to Members and Officers.'

4.2 The list of sub-delegations, even more than the Scheme of Delegations which sits above it, reflects the changing profile of the authority's workforce and the ways in which decisions are made. It is a living document, which is

continually being amended. Officers are regularly reminded to update it. It is available on the authority's internal website here: [list of sub-delegations](#)

5.0 Consultation

5.1 None.

6.0 Resource Implications

6.1 None.

7.0 Financial

7.1 None.

8.0 Staffing

8.1 None.

9.0 Conclusion

9.1 It is essential that officers of the authority are clear about the powers they do and do not hold and the limitations and extent of those powers so that they may act on the authority's behalf in a lawful way.

9.2 It is equally important that all possible steps are taken to ensure that the authority's decision-making occurs within a framework which is transparent to those outside the authority.

9.3 The legal requirement that a list of delegations be published online is met by the Scheme of Delegations to Officers, which forms part of the authority's Constitution and is reviewed annually. The list of sub delegations is also important and this is maintained by the Deputy Chief Executive and again regularly updated.

Victoria Simpson
LAWYER TO THE COUNCIL AND MONITORING OFFICER

Appendices

None.

Background Papers:

Relevant legislation, including that referred to in the body of this Report.

The Scheme of Delegation to Officers, which is published in the Council's Constitution, and the List of Sub Delegations referred to above