

PART 1 - PUBLIC

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**Decision Maker:**      **Adult and Community PDS Committee**

**Date:**                      **14<sup>th</sup> April 2010**

**Decision Type:**      Non-Urgent                      Non-Executive                      Non-Key

**Title:**                      **SCHEME OF DELEGATION TO OFFICERS**

**Contact Officer:**      Graham Walton, Democratic Services Manager  
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**Chief Officer:**              Mark Bowen, Director of Legal, Democratic and Customer Services

**Ward:**                      N/A

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1.    Reason for report

- 1.1 At the Annual Council meeting each year a Scheme of Delegation to Officers is approved. The Scheme has been amended to meet the requirements of the Local Government and Public Involvement in Health Act 2007, principally by clarifying whether powers are delegated by the Council, by the Leader in the case of executive powers, or both.
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2.    **RECOMMENDATION(S)**

- 2.1 **That the PDS Committee consider and comment on the proposed new Scheme of Delegation to Officers, focussing on their specific areas of responsibility.**

### Corporate Policy

1. Policy Status: Existing policy. The Council approves a Scheme of Delegation to Officers each year at the annual meeting. Executive powers now need to be delegated by the Leader.
  2. BBB Priority: Excellent Council.
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### Financial

1. Cost of proposal: No cost
  2. Ongoing costs: N/A.
  3. Budget head/performance centre: N/A
  4. Total current budget for this head: £N/A
  5. Source of funding: N/A
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### Staff

1. Number of staff (current and additional): No additional staff.
  2. If from existing staff resources, number of staff hours: Updating the Scheme of Delegations has involved a number of officers - probably less than 36 hours staff time.
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### Legal

1. Legal Requirement: Statutory requirement. Local Government and Public Involvement in Health Act 2010.
  2. Call-in: Call-in is not applicable. The report does not involve an executive decision.
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The delegation of powers to officers is essential to the efficient operation of most Council services.
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

- 3.1 The Scheme of Delegation to Officers sets out formal delegation of various powers to the Council's chief officers and their staff. The Scheme is normally updated for approval at the Council's annual meeting in May each year. The General Purposes and Licensing Committee instigated a review of the Scheme in the summer of 2009, requesting Development Control Committee and all PDS Committees to question whether matters should be delegated, if prior notification of intention to exercise a delegated power was needed, if there should be a report afterwards and whether such reports could await an annual review. A summary of members' comments from this review is attached at **Appendix 1**.
- 3.2 Changes to executive arrangements required under the Local Government and Public Involvement in Health Act 2007 mean that any executive powers delegated to officers have to be delegated not by the Council, but by the Leader of the Council. The simplest way to reflect this in the scheme is to add a column to indicate whether each individual delegation derives from the Leader or from Council, or both.
- 3.3 As a result of the 2009 review, the new legal requirement to attribute each delegation to either the Council or the Leader, and, in addition, recent changes to departmental arrangements, the Scheme has been updated again. At the request of the Constitution Improvement Working Group and General Purposes and Licensing Committee, Members of all PDS Committees and the Development Control Committee are asked to review the sections of the Scheme relating to their work and highlight any further changes that are needed before the scheme is submitted for approval at the Annual Council meeting.
- 3.The delegations relating to Adult and Community are attached as **Appendix 2**.

<b>Non-Applicable Sections:</b>	Finance/Legal/Policy/Personnel
Background Documents: (Access via Contact Officer)	Scheme of Delegation to Officers approved by Council, 13 <sup>th</sup> May 2009

<b>Committee</b>	<b>Comments of Committee</b>	<b>Update</b>
<p>General Purposes and Licensing Committee</p> <p>24<sup>th</sup> June 2009</p>	<p>(1) DLDCS to identify non-executive functions</p> <p>(2) All PDS Committees and DC Committee to examine the relevant sections of the Scheme and question –</p> <p>(i) whether matters should be delegated;</p> <p>(ii) if so, should there be prior notification of intention to exercise the delegation;</p> <p>(iii) should the matter be reported after the fact;</p> <p>(iv) can the report wait until an annual review.</p> <p>(3) PP&amp;S delegations be amended to include Sections 28 and 29 of the Regulation of Investigatory Powers Act.</p> <p>(4) PP&amp;S delegations (7), (9), (10), (11) (22) and (24) be clarified and updated where necessary.</p> <p>(5) Environment Delegations (91) and (92) be amended by the addition of reference to the statutory list of maintained highways and rights of way.</p> <p>(6) Any changes proposed to the Scheme be reported to GP&amp;L committee prior to submission to full Council.</p>	<p>Executive and non-executive delegations are identified in the current scheme.</p> <p>This will be done twice, in July/August 2009 and March/April 2010.</p> <p>Amended in current scheme.</p> <p>Amended in current scheme.</p> <p>Amended in current scheme.</p> <p>This report is to be considered by GP&amp;L Committee on 7<sup>th</sup> April 2010</p>
<p>Public protection and Safety PDS Committee</p> <p>6<sup>th</sup> July 2009</p>	<p>Noted and asked officers to report back in March 2010.</p>	<p>This report goes to PP&amp;S PDS Committee on 17<sup>th</sup> March 2010.</p>
<p>Executive and Resources PDS Committee</p> <p>7<sup>th</sup> July 2009</p>	<p>Resources delegation (1) – Members sought more involvement in selection of senior staff.</p> <p>A number of Resources delegations were identified as possibly redundant – (25) Bromley town centre redevelopment; (49) GLC seaside estates and Beckenham fire station; and (50) single regeneration budgets.</p> <p>All delegations need to be clearly recorded so</p>	<p>Regulations from 2001 prevent Member involvement below deputy chief officer level.</p> <p>These delegations are being checked and will be deleted from the final scheme as necessary.</p> <p>PDS Committees may make arrangements to</p>

	that Members can scrutinise them as necessary.	scrutinise the exercise of delegations within their portfolios.
Renewal and Recreation PDS Committee 8 <sup>th</sup> July 2009	Noted	-
Children and Young People PDS Committee 13 <sup>th</sup> July 2009	No comments	-
Environment PDS Committee 14 <sup>th</sup> July 2009	Deferred pending the identification of executive and non-executive functions and consultation with ward Members.	Executive and non-executive delegations have been identified in the latest Scheme – as previously, the Scheme is circulated to all Members.
Adult and Community PDS Committee 15 <sup>th</sup> July 2009	Noted	-
Development Control Committee	No amendments suggested.	-

## LONDON BOROUGH OF BROMLEY

## SCHEME OF DELEGATION TO OFFICERS

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## PART I

GENERAL CONDITIONS GOVERNING DELEGATION  
OF FUNCTIONS TO CHIEF OFFICERS

	Responsibility Delegated from
1. These General Conditions and any amendment of or addition to made by the Council, shall apply to the delegation of functions specified in Part II of this document, and to any amendment of or addition to made by the Council or the Leader or the Monitoring Officer under paragraph 12 of this Part.	-
2. Powers delegated shall be exercised in conformity with the Constitution, Standing Orders, Financial Regulations and other directives of the Council in force from time to time, and in accordance with the expressed policies and objectives of the Council, the Executive or Committees relevant to the matter upon which action is to be taken.	-
3. The delegation of authority to deal with any matter shall not derogate from the power of the Council, the Executive, or Committee, Sub-Committee or Panel to call for a report on any decision or action taken, or to require any such matter under consideration to be referred to the Council or to the appropriate Executive body or Committee Sub-Committee or Panel for determination so far as this accords with the law.	Council/Leader
4. A Chief Officer may refer a matter to the Executive, the appropriate Executive Portfolio Holder or to the Chairman of an appropriate Committee and will, in any event, ensure that care is taken to identify any case within his delegated authority where unusual circumstances or other reasons suggest the desirability of Member consideration.	Council/Leader
5. If a matter involves considerations not within the purview of the Chief Officer primarily concerned, he shall consider whether it is necessary to consult any other Chief Officer concerned before authorising action, shall do so if he concludes it is necessary and shall take due account of any views that are expressed.	Council/Leader
6. When the implementation of a decision taken under the delegated authority by a Chief Officer requires the preparation of formal documents, legal proceedings or other legal process or advice, the Chief Officer concerned shall refer the matter to the Director of Legal, Democratic and Customer Services for appropriate action.	Council

<p>7. Authority to take decisions and other action including but not limited to the signing of documents and the requirement to arrange consultations shall be exercised and undertaken on behalf of the Council in the name of the Chief Officer to whom the authority to act is given, but not necessarily personally by him.<sup>1</sup> Therefore, under this condition each Chief Officer has power to authorise others to exercise any power conferred on him provided that any such authorisation shall be subject to these General Conditions and be commensurate with the nature of the matters to be dealt with. Further, the Chief Executive may authorise any other Chief Officer to exercise any power delegated to him in this scheme which in his judgement is consistent with that other officer's responsibility. Authorisations given by Chief Officers to others to exercise powers delegated under this scheme should be recorded in writing in a list maintained by each Chief Officer. This shall be taken to mean that, provided a Chief Officer has authorised the person making a decision on his behalf to act, that person may sign in his own name or in his Chief Officer's name when he makes that decision.</p>	<p>Council/Leader</p>
<p>8. The Chief Executive may, after consultation with any Chief Officer, refer to the Executive, the appropriate Executive Portfolio Holder, or appropriate Committee for decision any matter which has been brought to his notice and which, in his opinion, because of special difficulty or otherwise, warrants such reference.</p>	<p>Council/Leader</p>
<p>9. For the purposes of these General Conditions and the general and specific authorities to act to which they apply, the expression 'Chief Officer' shall mean:-</p>	<p>Council</p>
<p>The Chief Executive, the Director of Resources, the Director of Legal, Democratic and Customer Services, the Director of Children &amp; Young People Services, the Director of Environmental Services, the Director of Renewal and Recreation, the Director of Adult and Community Services, the Assistant Chief Executive, Human Resources and the Chief Planner.</p>	
<p>10. Reference to an enactment in a grant of delegation shall be deemed to extend to and include reference to any subsequent enactment having like or similar effect as though the delegation had been granted under the subsequent enactment.</p>	<p>Council/Leader</p>
<p>11. An officer exercising any power under this scheme of delegation shall ensure that some written or other permanent record is made of his decision and, in cases where a range of alternative decisions presented themselves, shall record why he made the particular decision.</p>	<p>Council/Leader</p>

<sup>1</sup> This shall be taken to mean that, provided a Chief Officer has authorised the person making a decision on his behalf to act, that person may sign in his own name or in his Chief Officer's name when he makes that decision.

<p>12. For the avoidance of doubt, the Council and the Leader hereby declare that any exercise of a power by a Chief Officer, or an officer authorised by him and which, if expressly provided for by this Scheme of Delegation, could have been lawfully exercised by an officer under powers delegated to him by the Council or a Committee, shall be deemed to be authorised by this Scheme notwithstanding such express provision may not have been made in it; PROVIDED THAT, where an officer relies on this paragraph, the Monitoring Officer shall be informed by the officer of this action and the Monitoring Officer shall make a report on the matter to the next ordinary meeting of the Council.</p>	<p>Council/Leader</p>
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## PART II

Subject to the foregoing, and without derogation from the powers or duties now or hereafter conferred or imposed upon officers of the Council, by statute or by any statutory instrument or regulation, authority to act for and on behalf of the Council without reference to the Council or Executive body or any Committee shall be delegated as follows:-

<p>4. To the Director of Adult and Community Services Negotiate schedules of rates and other contractual provisions with registered residential and nursing home providers and/or care service providers to facilitate adult client choice within community care legislation. Clients should be directed to providers on such Approved Lists although the Director may agree to placement with a non approved provider provided that</p> <ul style="list-style-type: none"><li>(i) the clients' choice is appropriate to their needs and</li><li>(ii) the client meets the relevant eligibility criteria</li><li>(iii) the costs fall within the rates accepted by the Council for accommodation and/or care for clients with their specific eligibility or a third party has entered into a binding contract with the provider and Council to meet any difference</li><li>(iv) as far as possible inflationary increases in such rates should be negotiated at the outset.</li></ul>	Leader
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**B. AUTHORITIES RELATED TO THE FUNCTIONS OF INDIVIDUAL PORTFOLIO HOLDERS AND COMMITTEES**

**ADULT & COMMUNITY PORTFOLIO/  
RELEVANT REGULATORY COMMITTEE(S)**

Officer(s) Authorised	Authority to:-	Responsibility delegated from
DACS	(1) Ensure that the powers and duties to provide for the social care of elderly people, people with a disability and/or chronic sicknesses are met in accordance with statutory requirements and Council policy.	Council/Leader
DACS	(2) Exercise the statutory functions (including under the Mental Health Acts and Mental Capacity Act 2005) to safeguard the welfare of people suffering from a mental illness.	Leader
DACS	(3) Arrange burials and cremations in cases where no other suitable arrangements have been made.	Leader
DACS	(4) Consider the conditions and housing needs of the Borough.	Leader
DACS	(5) Assess and arrange rehousing for homeless applicants in accordance with statutory requirements and Council policy.	Leader
DACS	(6) Nominate applicants to Housing Associations.	Leader
DACS	(7) Monitor the performance of Housing Associations and arrange for collection and production of statistical information.	Leader
DACS	(8) Consult with and provide advice to Housing Associations and other housing organisations on the housing needs of the Borough.	Leader
DACS	(9) Manage and provide temporary accommodation for homeless people and in cases of emergencies.	Leader
DACS	(10) Agree the terms and conditions for block booking arrangements for temporary accommodation.	Leader
DACS	(11) Manage the Council funded development programme in line with Council policy.	Leader
DACS	(12) Undertake the general supervision and management of social work support services provided under the Local Authority Social Services Act 1970 (and any other enactment) not generally covered elsewhere in this scheme of delegation.	Leader

DACS	(13)	Ensure that reasonable costs are recovered for certain services in line with statutory regulations and Council policy.	Leader
DACS	(14)	Discharge the Council's transport functions in accordance with statutory requirements.	Council/Leader
DACS	(15)	Be "proper officer" in respect of the Rent Officer service.	Council
DACS	(16)	Dispose of small plots of land which are surplus to requirements and which do not exceed 200 square metres in area, subject to consultation with local Ward Members.	Leader
DACS	(17)	Waive or abate charges and to take further action in relation to recovery of charges.	Leader
DACS	(18)	Approve applications for joint financing of less than £50,000.	Leader
DACS	(19)	Authority to allocate Housing Association Programme funds in accordance with the criteria contained in Social Services and Housing Committee Minute 232(g) (21 <sup>st</sup> July 1997).	Leader
DR	(20)	Determine and pay claims for "well maintained" payments following directions given by the Secretary of State for the Environment.	Leader
DR	(21)	Negotiate with owners and accept tenancies of properties in compulsory purchase orders awaiting confirmation by the Secretary of State and from which immediate rehousing is considered necessary.	Leader
DR	(22)	Deal with the day-to-day management of all maisonettes associated with shop premises.	Leader
DR	(23)	Authorise payment of disturbance claims.	
DACS	(24)	Approve all renovation, disabled facilities and minor works grants and grants relating to water supplies in accordance with the schemes approved by the Executive Portfolio Holder.	Leader
DACS	(25)	Require and enforce repayment of renovation grants in accordance with the practice of the Executive. Approve the waiving of repayments where financial hardship to the owner would arise.	Leader
DACS	(26)	Carry out the Council's functions relating to private sector housing in connection with unfitness, disrepair, provision of amenity, means of escape in the case of fire, overcrowding, management and control.	Leader

DACS	(27)	Institute enforcement action and, subject to the Director of Legal, Democratic and Customer Services being satisfied with the evidence in each case, legal proceedings, in respect of (31) above.	Leader
DACS	(28)	Authorise the carrying out of work in default in appropriate cases of non-compliance.	Leader
DES/CP	(29)	Arrange for the demolition of properties for redevelopment purposes.	Leader
DR	(30)	Determine the amounts of rent rebates to be allowed under approved scheme.	Leader
DACS	(31)	Authorise the approval of discretionary disabled facilities grants in exceptional circumstances.	Leader
DACS	(32)	Authority to approve Social Workers' warrant cards.	Leader