

ARDS AND NORTH DOWN BOROUGH COUNCIL

SCHEME OF DELEGATION

1 April 2015

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1. Introduction

Ards and North Down Borough Council (“the Council”) is committed to setting and securing the highest standards in decision making and the Scheme of Delegation provides the framework and guidance for the powers delegated to Committees of Council and to senior officers within the Council.

Like every other Local Authority, the Council is only able to do what the law empowers it to do. In the absence of a decision by the Council to the contrary, all of its powers would have to be exercised through meetings of the full Council.

Recognising that this would be unworkable and would detract from the Council’s aims and values, the Council has chosen to exercise one of the powers available to it – the power to delegate. There are however some powers which the law says cannot be delegated and others which the Council chooses to keep for itself.

Every decision taken under delegated power is considered to be a decision of the Council.

2. Distribution of Decision-making Powers

It is virtually impossible to specify all of the powers that are available to the Council and assign them to a variety of delegates. As a result, the Council has decided that, except for matters which must be dealt with at the level of the Council itself (as required by Statute or as agreed by Council), all other powers should be delegated.

3. Powers Reserved to the Council

The Council is only permitted to do what statute empowers it to do and certain elements of the Council’s statutory powers cannot be delegated. The Scheme does not delegate any matter reserved to full Council which by law may not be delegated, that is,

- a. determining all matters relating to Elections which are not the responsibility of the Returning Officer;
- b. subject to the provisions of the Council’s Standing Orders:-
 - electing the Mayor and Deputy Mayor of the Council and Aldermen,
 - establishing Committees and determining the delegation of functions to these,
 - appointing Members to serve on Committees and as Chairs and Vice Chairs,
 - appointing Members to serve on Sub Committees, Joint Committees and external organisations,

- approving, reviewing and amending the Council's Standing Orders, Constitution, Scheme of Delegation and Financial Regulations;
 - approving the strategic objectives and the corporate policies of the Council,
 - including any new policies or changes to policies which may have a significant impact on the Council's strategic objectives, corporate policies or its resources;
- c. undertaking an annual review of and setting the Council's rate;
- d. undertaking an annual review of and setting the Council's capital programme
- e. determining any expenditure which does not keep to financial regulations or is not included in the annual revenue budget or capital programme;
- f. making, altering or cancelling any scheme made under any enactment;
- g. determining any process for the selection, appointment, payment, disciplinary action or dismissal of the Chief Executive,
- h. determining whether to co-operate or combine with other local authorities in providing services;
- i. determining a Scheme of Members' Allowances;
- j. determining any issues relating to the maintenance of standards and conduct;
- k. determining the delegation of functions to Officers; and
- l. taking any other decisions which cannot by law be delegated to a Committee or an Officer.

4. Further Reservations to the Council

There are also certain matters that the Council has chosen to deal with itself. These are detailed at Appendix 1 and the Council has decided that these powers will not be delegated.

Delegations to Officers

The Council has reserved very few powers to itself and has agreed extensive delegations to the Chief Executive who in turn is empowered to sub-delegate to the Directors and other officers. This does not release him/her from the responsibility arising from the exercise of the authority that has been delegated to them in this Scheme.

Where a responsibility has been further delegated, there is nothing to prevent the Chief Executive, who was originally given delegated powers under this Scheme, from dealing with the responsibility themselves or from withdrawing or amending the delegation.

The only exception to the practice of routing all officer delegations through the Chief Executive arises through statutory appointments. In terms of various statutes, the Council is required to appoint officers for a variety of purposes. Officers appointed to perform these statutory functions are empowered to take the action that is implicit in their roles.

5. General Delegated Functions

The exercise of the following general functions is delegated to the Chief Executive who can sub-delegate to Directors:

5.1 General administration

- Taking all necessary action for the effective day-to-day management, administration and supervision of the directorate, services and land and property assets.
- Implementing those actions, programmes and initiatives which the Director is responsible for, as set out in agreed Council plans, subject to regular reporting to the relevant Committee and to the expenditure being within agreed estimates.
- Carrying out surveys and other research in connection with the functions of the directorate, subject to Council policies on procurement.
- Responding to consultation documents on matters which are routine or which do not have significant policy or financial implications for the Council.
- Making initial applications for grant funding from external bodies where there is not sufficient time for Council approval to be obtained, provided that there is no commitment for Council funding and that any subsequent decision to proceed remains subject to Council approval.
- Developing and implementing specific promotions, schemes and events in line with any relevant Council policies.
- Instructing the Director of Finance and Performance to take legal proceedings in regard to the recovery of debt(s), the enforcement of contractual rights, the service of notices, the prosecution of statutory offences and the instituting and defending of claims and proceedings affecting the Director's department.
- To provide, subject to appropriate provision within existing budgets, reasonable hospitality to representatives of other authorities and outside bodies.

5.2 Finance

The exercise of the following delegated powers is subject to consultation with the Director of Finance and Performance to ensure that decisions are taken in accordance with any relevant Council policies and that, where necessary, the appropriate Committee is kept fully advised by way of regular reporting.

- Writing off any loss of money (including bad debts) and loss of stores and obsolete equipment and materials in accordance with the limits outlined in the Financial Regulations.
- Authorising the virement of budgets (the transfer of budget from one budget heading to another) in accordance with the limits outlined in the Financial Regulations.
- Authorising appropriate payments to employees in their directorate in respect of travel and subsistence allowances, standby and call out allowances, overtime, additional duties and costs of study courses, in accordance with Council policies.
- Granting of small scale hospitality pursuant to Section 37 of the Local Government Act (Northern Ireland) 1972 subject to the financial limits set.

5.3 Human Resources

The exercise of the following delegated powers is subject to consultation with the Director of Organisational Development & Administration to ensure that decisions are taken in accordance with any relevant Council policies and that, where necessary, the appropriate Committee is kept fully advised by way of regular reporting. Staff management changes that result in an increase in the approved staffing establishment and staffing budget for a directorate and/or which effect any changes to posts at third tier and above (Head of Service level) will be subject to the relevant Committee.

- Up to and excluding Directors, to appoint successful applicants to posts in line with the employment policies and practices adopted by the Council. To place employees on appointment on a salary point within the grade or grades applicable to posts.
- Creating new temporary posts provided that there is no increase in the Department's approved staffing establishment and staffing budget.
- Approving the use of agency resources in accordance with all relevant Council policies.
- Authorising employees to attend training and development events, technical visits and courses, including conferences, exhibitions, workshops and seminars and meetings of appropriate professional associations, all within Northern Ireland, subject to any relevant Council policies.
- Establishing temporary posts for not more than 52 weeks, providing that there is adequate funding within the approved budget for the department concerned.
- Determining applications for early retirement and voluntary severance for Officers below Head of Service level, within the approved regulations and

policy direction of the Council and in accordance with all relevant Council policies.

- Approving payments in lieu of notice, only where satisfied that it is not appropriate for an employee to continue in employment during the period of notice.
- Approving the payment of honoraria to an employee in accordance with all relevant Council policies.
- Determining requests for the transfer of additional annual leave across consecutive leave years in cases where an employee's entitlement is affected by occurrence of sick leave or in the best interests of the Service.
- Allowing or disallowing requests for leave, of any kind, in accordance with the Schemes of Conditions of Service adopted by the Council.
- Determining the payment of car allowances, within the terms of Council policy.
- Conducting disciplinary proceedings in respect of employees, within the terms of the Council's approved disciplinary procedures and taking decisions, in accordance with the Council's Conditions of Service and consultation with the Director of OD & Administration with regard to the dismissal of employees up to, but excluding Director level.

5.4 Emergencies and cases of urgency

- Taking such measures, including incurring expenditure, as may be required in emergency situations or cases of urgency, subject to advising the Mayor and reporting to the appropriate Committee as soon as possible.
- Where such measures involve the Council incurring expenditure of an amount that is likely to result in the Committee's expenditure exceeding its approved estimate, then the relevant Director should advise the Director of Finance and Performance and submit a report to the relevant Committee as soon as possible.

5.5 Management of Land & Property Assets

- The management of the land and property assets (e.g. leisure centres, community centres, parks and open spaces). The use of these delegated powers is subject to the premise that there is no disposal, holding or acquisition of land involved.
- Permitting the use of such assets by Council departments and services and outside bodies in accordance with any relevant Council policies.

5.6 Procurement

The exercise of the following delegated powers is subject to consultation with the Director of Finance and Performance to ensure that decisions are taken in accordance with any relevant Council policies and the Financial Regulations, and that where necessary, the appropriate Committee is kept fully advised by way of regular reporting. Any contract that exceeds the statutory amount (currently £30,000 {exclusive of VAT}) needs to be made under the Corporate Seal.

- Procuring goods, services or works under the statutory limit of £30,000 where the procurement is in relation to matters of a routine or recurring nature; or is in relation to the operational requirements of the Department provided that it is not of an unusual or controversial nature; or is contained within an agreed Council plan.
- For consistency, and for the benefits highlighted on the introduction of electronic tendering such as reduction of paper, all tenders must be issued through the eSourcing NI electronic tendering system. This also provides a full audit trail of the process. A final compliance check of all documentation must be carried out by the procurement section before issue.
- Authorising the completion of a contract for the procurement of goods, services or works over the statutory limit of £30,000, following a tender exercise, where the Council has approved the invitation to tender and the award of the contract is made in accordance with the predetermined award criteria.
- Approving the changing of sureties by contractors provided the Council's interests remain fully protected.
- Determining a contract awarded by the Council where the contractor is in breach of contract and unable or unwilling to proceed therewith, subject to consultation with the Chairperson of the relevant Committee and the Director of Finance and Performance.
- Taking action to ensure contract compliance and negotiating claims and contract variations.
- Signing maintenance agreements subsequent to capital acquisitions agreed by the Council and allowed for within the tender specification, subject to legal advice.
- Making arrangements for the supply of goods and services pursuant to Section 105 of the Local Government Act (Northern Ireland) 1972.

6. Statutory Powers and Duties of the Council

Regulatory Services (Borough Inspectors Office, Building Control & Environmental Health)

In exercise of its powers under Section 7 (1) of The Local Government Act (Northern Ireland) 2014,

a) the delegation of the power to authorise officers to carry out the Councils regulatory functions, to the Director of Community and Well-being and Director of Environment, and

b) the delegation of the discharge of those functions by the Council under the following provisions, to relevant authorised officers under the guidance of the Director of Community and Well-Being or the Director of Environment.

- Belfast Corporation Act 1930 (in respect of illegal shellfish gathering from the Belfast Lough Foreshore)
- Building (Prescribed Fees) (Amendment) Regulations (Northern Ireland) 2013
- The Betting, Gaming, Lotteries & Amusements (Northern Ireland) Order 1985
- The Building (Amendment) Regulations (Northern Ireland) 2012
- The Building Regulations (Northern Ireland) Order 1979 (as amended)
- The Caravans Act (Northern Ireland) 1963
- The Children & Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991
- The Cinemas (Northern Ireland) Order 1991
- The Clean Air (Northern Ireland) Order 1981
- The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011
- The Construction Products Regulations 1991
- The Consumer Protection Act 1987
- The Dangerous Dogs (Northern Ireland) Order 1991
- The Dogs (Northern Ireland) Order 1983
- The Environment (Northern Ireland) Order 2002
- The Fire and Rescue Services (Northern Ireland) Order 2006 Part III
- The Fluorinated Greenhouse Gases Regulations (NI) 2009
- The Food & Environment Protection Act 1985 Part III
- The Food Safety (Northern Ireland) Order 1991 (as amended) and any orders or regulations made thereunder or relating to the foregoing or having effect by virtue of The European Communities Act 1972 and modification or re-enactment to the foregoing
- The General Product Safety Regulations 2005
- The Hairdressers Act (Northern Ireland) 1939
- The Health and Personal Social Services (Northern Ireland) Order 1978
- The Health and Personal Social Services and Public Health (N.I.) Order 1991 (for services rendered to the trust in respect of infectious disease)
- The Health and Safety at Work (Northern Ireland) Order 1978
- The High Hedges Act (Northern Ireland) 2011
- The Housing (N.I.) Order 2003 (for Rent Book Regulation enforcement)
- The Housing (N.I.) Order 1981 (re fitness standard),
- The Industrial Pollution Control (NI) Order 1997
- Intoxicating Substances (Supply) Act 1985
- The Litter (Northern Ireland) Order 1994
- The Local Government Act (Northern Ireland) 1972
- The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985
- The Noise Act 1996
- The Office and Shops Premises Act (Northern Ireland) 1966
- The Petroleum (Consolidation) Act (Northern Ireland) 1929 (as amended)
- The Petroleum Regulation Acts (Northern Ireland) 1929 & 1937
- The Poisons (Northern Ireland) Order 1976
- The Pollution Control & Local Government (Northern Ireland) Order 1978
- The Pollution Prevention and Control Regulations (NI) Order 2003
- The Private Tenancies (Northern Ireland) Order 2006
- The Private Water Supplies Regulations (Northern Ireland) 2009

- The Public Health Acts 1878-1967
- The Rats & Mice (Destruction) Act 1919
- The Rent (Northern Ireland) Order 1978
- The Road Traffic Regulation (Northern Ireland) Order 1997
- The Safety of Sport Grounds (Northern Ireland) Order 2006
- The Shops (Sunday Trading) (Northern Ireland) Order 1997
- The Smoking (Northern Ireland) Order 2006
- The Solvent Emissions Regulations (Northern Ireland) 2004
- The Street Trading Act (NI) 2001
- The Sunbeds (Northern Ireland) Act 2011
- The Tobacco Advertising and Promotion Act 2002
- The Volatile Organic Compounds in Paint, Varnishes and Vehicle Refinishing Products Regulations 2005
- The Waste & Contaminated Land (Northern Ireland) Order 1997 (including Article 44 Part II of the Order - obtaining of information)
- The Welfare of Animals (Northern Ireland) Act 2011

The Council further undertakes to delegate its functions with regard to institute legal proceedings pursuant to offences committed under the provisions listed above to relevant officers under the guidance of the Director of Community and Wellbeing and Director of Environment. Such delegated authority to be exercised in accordance with the Council's Enforcement Policy on Regulatory Services functions and to be reported to the Council thereafter. Such legal proceedings will be subject to consultation with the Council's solicitors as appropriate.

7. Review

The Council will review its Scheme of Delegation periodically (at least annually). Between reviews, arrangements are made for the publication of amendments to the Scheme arising from decisions by Council or made necessary by changes in legislation.

Appendix 1

Further Reservations to the Council

There are certain matters that the Council has chosen to deal with itself and these powers will not be delegated. These are as follows:

- All first granting of new licences in respect of applications for entertainment, cinemas, sex establishments, street trading
- Buying and selling of land and property
- Any other reservations to be determined by Council