

COUNCIL

Amendment of the Executive Scheme of Delegation to Officers – Food Safety and Hygiene Regulations 2008 and Environmental Protection Act 1990

28 September 2016

Report of the Monitoring Officer

PURPOSE OF REPORT

To give notice of two amendments made by the Leader to the Scheme of Delegation to Officers.

This report is public

RECOMMENDATIONS

(1) That the report be noted.

1.0 Introduction

1.1 The current delegations of Executive functions to officers were approved by Council in May 2016, and are set out in Part 3 of the Constitution.

1.2 Rule 1.4(b) of the Cabinet Procedure Rules provides as follows:

“The Leader may amend the Scheme of Delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Executive as a whole. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.”

1.3 This report informs Council of the following amendments made to Executive delegations.

2.0 Amendments

- 2.1 Executive functions under the Food Safety and Hygiene Regulations 2008 have been given, by the Leader, to the Chief Officer (Health and Housing), and accordingly have been added to the Scheme of Delegation (pages 35/36 of Part 3, Responsibility for Functions Section 14, Scheme of Delegation to Officers). Further, there has been a slight amendment to the wording to make it explicit that executive functions include those provided for under secondary legislation. The amendments are shown in bold and underlined on Appendix 1, attached.
- 2.2 In relation to notices served pursuant to the Environmental Protection Act 1990 (EPA 1990) a footnote has been added to clarify that external contractors and staff are authorised to issue fixed penalty notices under the EPA 1990. The footnote is shown on Appendix 2, attached.

4.0 Details of Consultation

- 4.1 There has been no consultation.

5.0 Conclusion

- 5.1 The report is for noting

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The delegations authorised by the Leader will ensure that appropriate action can be taken under the regulations, where necessary.

LEGAL IMPLICATIONS

Legal Services have brought these issues to the attention of the Monitoring Officer for inclusion in the Constitution.

FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this report.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer.

BACKGROUND PAPERS

None

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APPENDIX 1
Amendments to Pages 35/36 of Part 3, Section 14

TO THE CHIEF OFFICER (HEALTH AND HOUSING)

To serve notices and to act on behalf of the Council under the following legislation (**and any subordinate legislation, regulations or orders made under the primary acts**), and to designate authorised officers who may then act on behalf of the Council under the following legislation (**including any subordinate legislation, regulations or orders made under the primary acts**) in accordance with their designation as authorised officer:

Animal Welfare Act 2006
Building Act 1984
Caravan Sites and Control of development Act 1960
Caravan Sites Act 1960
Civil Contingencies Act 2004
Clean Air Act 1993
Clean Neighbourhoods and Environment Act 2005
Control of Pollution Act 1974
County of Lancashire Act 1984
Criminal Justice and Public Order Act 1994
Dangerous Dogs Act 1991
Dogs Act 1871
Dogs (Fouling of Land) Act 1996
Environment Act 1995
Environmental Protection Act 1990
European Communities Act 1972
Food and Environmental Protection Act 1985
Food Safety Act 1990
Food Safety and Hygiene Regulations 2008
General Food regulations 2004
Health Act 2006
Housing Acts 1985, 1996 and 2004
Local Government (Miscellaneous Provisions) Acts 1976 and 1982
Mobile Homes Act 2013
National Assistance Act 1948
Pollution Prevention and Control Act 1999
Pollution Prevention and Control (England and Wales) Regulations 2000
Prevention of Damage by Pests Act 1949
Private Water Supplies Regulations 2009
Product of Animal Origin (Import and Export) Regulations 1996
Products of Animal Origin (Third Country Imports)(England) Regulations 2002
Public Health Acts 1936 and 1961
Public Health (Control of Disease) Act 1984
Road Traffic (Vehicle Emissions)(Fixed Penalty)(England) Regulations 2002
Sunbeds (Regulation) Act 2010
Sunday Trading Act 1994
Water Industry Act 1991

APPENDIX 2
Amendment to Page 34 of Part 3, Section 14

TO THE CHIEF OFFICER (ENVIRONMENT) AND ANY STAFF DESIGNATED BY HIM/HER IN WRITING

To serve notices on behalf of the Council under the Environmental Protection Act 1990*, Clean Neighbourhoods and Environment Act 2005 and the Refuse Disposal (Amenity) Act 1978.

To act on behalf of the Council as consultee under section 1E of the Crime and Disorder Act 1998 in respect of applications for Anti-Social Behaviour Orders.

Under the Anti-Social Behaviour, Crime and Policing Act 2014:

- (a) to be authorised persons for the purposes of section 53, with authority to issue a Community Protection Notice (Section 43), and/or a Fixed Penalty Notice for breach of a Community Protection Notice (Section 48);
- (b) to be authorised to issue notices under Section 47(3), Section 47(6) and 49 (6) in respect of Community Protection Notice works in default;
- (c) to have authority to authorise Community Protection Notice work in default to be carried out under sections 47(2) and (3);
- (d) to be authorised persons for the purposes of Section 63 and Section 68 (enforcement of Public Spaces Protection Orders); and
- (e) to be authorised to issue a Closure Notice for a period of up to 24 hours.

* For the avoidance of doubt the Chief Officer (Environment) can designate persons who have entered into a contract with the Council for the provision of litter services as authorised officers under Section 88(10) of the Environmental Protection Act 1990, subject to satisfactory safeguards being set out in the contract to ensure notices are issued in accordance with the law and the Council is covered by a suitable indemnity.