

Appendix 2

Review of Delegated Powers

	Description	Responsibility delegated by
	Delegations to Commissioners and Executive Heads	
1.24	In managing the services and functions for which they are responsible Commissioners and Executive Heads shall be authorised to take any decisions (including any Key Decisions) and to exercise all legal powers relevant to those services and functions except Executive Heads shall not be authorised to take any decisions where they are expressly delegated to a specific Commissioner or Executive Head in this Scheme of Delegation unless so expressly delegated to specifically to them	Council/Executive
1.25a	This authorisation shall include (but not be limited to) any decisions in relation to the budget for and resources (including employees) allocated to those service/s and function/s for which they are responsible, from time to time.	
1.25b	This authorisation shall also include (but not be limited to) the service or receipt of notices, the making of orders, the authorisation of any action or the institution, defence or conduct of proceedings and appeals and the authorisation of named employees to enforce specific powers.	
1.26	Where the areas of responsibility and powers of an employee refer to specific Acts of Parliament, Regulations, Orders or guidance any subsequent re-enactment or amendment of the same shall apply.	
1.27	To retain contract staff or appoint consultants on matters related to their areas of responsibility.	
1.28	To make any decisions related to staff matters within their business unit in accordance with Council policy.	
1.29	So far as is lawful, Commissioners and Executive Heads may delegate (in writing) matters within the services and functions for which they are responsible to employees within their portfolio/business unit or to other Commissioners or Executive Heads. Any such delegations may be revoked, varied or subject to such limitations as the delegating Commissioner or Executive Head considers appropriate.	

	Description	Responsibility delegated by
1.30	Commissioners and Executive Heads may agree with the relevant Executive member any appropriate clarification of the “Limitations on Delegations” below.	
1.31	<p>A Commissioner (following consultation with the Chief Executive and the relevant Executive Head) may (by written notice (including email)) withdraw (either permanently or temporarily) any of the above powers delegated to any Executive Head within his/her portfolio and/or impose restrictions or conditions upon the exercise of any of the above powers by that Executive Head. However, this paragraph shall not apply in relation to the following:</p> <ul style="list-style-type: none"> <li data-bbox="383 772 1197 862">(a) the Council’s Chief Finance Officer when acting in that capacity; <li data-bbox="383 884 1197 974">(b) the Council’s Monitoring Officer when acting in that capacity; <li data-bbox="383 996 1197 1120">(c) the Executive Head Tor Bay Harbour Authority when exercising powers or duties expressly reserved to him/her by law; and <li data-bbox="383 1142 1197 1232">(d) any other officer when exercising powers or duties expressly reserved to him/her by law. 	
1.32	The Chief Executive, all Commissioners and Executive Heads shall delegate matters within their areas of responsibility to ensure that matters are dealt with at the appropriate level to maintain a proper balance between efficiency and control. The Chief Executive, all Commissioners and Executive Heads shall maintain a written record of the delegations they have made and any limitations they have imposed upon such delegations.	
2.	Limitations on delegations to the Chief Executive, Commissioners, Executive Heads and all other officers.	
2.1	No decision shall be taken by any officer under this Scheme of Delegation if any relevant member or the Chief Executive requests that the matter shall be referred to the Council or the Executive (whichever shall be able to take the decision in question) or to the Chief Executive.	

- 2.2 All decisions shall be in accordance with the law. Whether or not any decision is contrary to the Council's Constitution may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee if the Executive Head Commercial Services reasonably considers it to be contrary to the law.
- 2.3 All decisions shall be in accordance with the Constitution and the Policy Framework of the Council. Whether or not any decision or action falls within the Policy Framework may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee if the Deputy Chief Executive (in consultation with the Monitoring Officer) reasonably considers it to be contrary to the Policy Framework.
- 2.4 All decisions shall be in accordance with the Council's Budget and Financial Regulations. Whether or not any decision or action falls within the Budget and Financial Regulations may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee if the Chief Finance Officer reasonably considers it to be contrary to the Budget or Financial Regulations.

Commissioners and Executive Heads may vire resources between their portfolio/business unit budget heads in accordance with the Council's Standing Orders and Financial Regulations. No such virements shall be made without the prior approval of (and subject to any conditions imposed by) the Chief Finance Officer

- 2.5 All decisions relating to the expenditure of unbudgeted additional grant income in excess of £10,000 shall be the subject of a full written report to the relevant member, setting out details of the financial, legal, property, human resources and other material considerations, together with a proper risk assessment and options appraisal.
- 2.6 All decisions shall be in accordance with the Council's Standing Orders. Whether or not any decision or action is in accordance with the Council's Standing Orders may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee which the Monitoring Officer reasonably considers to be contrary to the Council's Standing Orders.
- 2.7 In relation to the authorisation of the institution, defence or conduct of legal proceedings no decision shall be taken without prior consultation with the Executive Head Commercial Services and no such action shall be taken that is contrary to or not in accordance with any instruction from the Executive Head Commercial Services.
- 2.8 Before exercising (or deciding not to exercise) any delegated powers all employees shall undertake appropriate internal consultation. This consultation shall normally include (but not be limited to) the following:

- 2.8.1 Where the proposal may have implications relating to the Council's Strategic Plan, consultation with all relevant members and the Commissioner of Communities and Local Democracy;
- 2.8.2 Where the proposal may have any policy implications, or any significant service implications, consultation with all relevant members;
- 2.8.3 Where the proposal might reasonably be regarded as unusual or highly contentious, or involve an uncertain outcome, or has been the subject of (or is likely to result in) an allegation of maladministration being made against the Council, consultation with the relevant member and appropriate senior officers;
- 2.8.4 Where the proposal has any legal implications, consultation with the relevant member and the Executive Head Commercial Services;
- 2.8.5 Where the proposal may have significant implications for any particular Ward, consultation with all the members representing that Ward;
- 2.8.6 Where the proposal may have any financial or audit (whether internal or external) implications, or any property implications, consultation with the Chief Finance Officer;
- 2.8.7 Where the proposal may have any constitutional implications, consultation with the Monitoring Officer;
- 2.8.8 Where the proposal may have any implications relating to the Council's insurance policies (or the ability of the Council to obtain insurance at reasonable rates in the future), consultation with the Chief Finance Officer;
- 2.8.9 Where the proposal may have any health and safety implications for the public or employees, consultation with the Executive Head Community Safety;
- 2.8.10 Where the proposal may have any human resources implications, consultation with the Executive Head Business Services;
- 2.8.11 Where the proposal may have any equalities implications, consultation with the Executive Head Business Services;
- 2.8.12 Where the proposal may have any implications for another Council business unit, consultation with the relevant Commissioner and Executive Head;

- 2.8.13 Where any relevant member or Commissioner has expressed opposition to a proposal, consultation with the Chief Executive. Where any Executive Head has expressed opposition to a proposal, consultation with the relevant Commissioner;
- 2.8.14 Where the proposal is similar to a previous matter that has been the subject of consultation with any member (or which a member has expressed a desire to be consulted about), consultation with that member;
- 2.8.15 Where the delegated power is expressly required to be exercised in consultation with one or more Community Partnership, the Community Partnership(s) specified in the decision to delegate;
- 2.8.16 Where the proposal may have significant implications for one or more Community Partnerships, consultation with those Community Partnerships affected; and
- 2.8.17 In any cases of doubt, consultation with the relevant member.
- 2.9 Property acquisitions and disposals may not be authorised where in the reasonable opinion of a fellow or member of the Royal Institute of Charter Surveyors (RICS) the estimated value of the land or property being acquired or disposed of exceeds £50,000 or (if a transaction is linked to another transaction) where the aggregate estimated value exceeds that amount. But this paragraph shall not prevent the Chief Executive and Commissioners authorising land/property acquisitions and freehold disposals where they are in accordance with the Council's Capital Programme or an express Council decision.
- 2.10 The Chief Executive and Commissioners may not authorise leases if, in the reasonable opinion of a fellow or member of the Royal Institute of Charter Surveyors (RICS), the value of the premium exceeds £25,000 or if the rent (including any service charge) should exceed £10,000 per year, or (if a transaction is linked to another transaction) where the aggregate relevant amounts exceeds those limits. But this paragraph shall not prevent the Chief Executive, Commissioners and Executive Heads authorising leasehold disposals where they are in accordance with the Council's Capital Programme or an express Council decision.
- 2.11 The Chief Executive, all Commissioners and Executive Heads may not authorise the acceptance of any tender for goods or services where the estimated or actual (whichever the higher) total contract value exceeds £50,000 or (if a contract is linked to another contract) where the aggregate estimated or actual (whichever the higher) value exceeds that amount unless otherwise specified within the Financial Regulations. But this paragraph shall not prevent the Chief Executive, Commissioners and Executive Heads authorising the acceptance of any tenders for goods or services where they are pursuant to the Council's approved Capital Programme. Where the

estimated or actual (whichever the higher) total contract value falls between £25,000 and £50,000 Commissioners and Executive Heads may not authorise acceptance of the contract unless they have first consulted with the relevant member and that member has indicated that they do not wish the matter to be referred to the Executive (or Council/Committee), as appropriate for determination.

- 2.12 No decisions shall be taken that is contrary to the terms of any specific delegations whether in this Scheme or made by Council (or a Council Committee or Sub-Committee) or the Executive, or an employee of the Council.

Updated and published on 22 February 2013