



Report to: Policy & Resources Committee

Agenda Item: 4.6

Report Title: Report on Scheme of Delegation for Fermanagh & Omagh District Council
(Paper F)

Date: 18th March 2015

Report by: Director of Corporate Services & Governance

For Publication: Yes

If 'not for publication', Insert reference to grounds upon which information is deemed 'confidential' [ref Local Government (Northern Ireland) Act 2014 section 42(2), (3)] or 'exempt' [ref Local Government (Northern Ireland) Act 2014 section 42(4) Schedule 6]:

(i) Confidential grounds:

(ii) Exempt grounds:

1. Relevant Background and Introduction

- 1.1 The purpose of this paper is to seek agreement from the Council on the proposed Scheme of Delegation as outlined in Appendix A.
- 1.2 Schemes of delegation are designed to ensure speedier decision making and improved efficiency
- 1.3 The scheme outlined has been drawn up to enable the council to operate as efficiently as possible from 1st April 2015.

2. Key Issues

- 2.1 The proposed scheme sets out the general powers under which it has been drawn up along with the general principles outlined in points 1 to 11.
- 2.2 Three tables contained within the scheme outline the powers delegated to the Chief Executive, the Chief Executive and Directors and finally to the Directors and Heads of Service.
- 2.3 Members should be aware that the powers delegated to officers are primarily to enable the council to function effectively from 1st April 2015 and in general are not an extension of the powers or functions already delegated. The scheme has been drawn up to formalise the delegation of those powers.

2.4 The draft scheme will be reviewed by our legal advisors and any amendments brought to a future meeting of the council.

3. Resource Implications

3.1 Financial

n/a

3.2 Human Resources

n/a

3.3 Assets and Other Implications

n/a

4. Equality and Good Relations Implications

n/a

5. Sustainable Development Implications

n/a

6. Electoral Ward(s) Affected

n/a

7. Recommendations

That the draft Scheme of Delegation for Fermanagh & Omagh DC is approved to be implemented with effect from 1st April 2015.

8. Appendices and Attachments

Annex 1 – Scheme of Delegation

9. Background Documents

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| <p>Key to Abbreviations:</p> |
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Annex I

Fermanagh & Omagh District Council

Scheme of Delegation

This Scheme of Delegation is made pursuant to the Local Government Act (Northern Ireland) 2014 Section 7 and by reference to the Local Government (Northern Ireland) Act 2014 Section 2 and the Local Government Act 2000 Section 14 and all other enabling powers.

This scheme sets out the delegated powers of officers of the council. However it should be noted that all officers at whatever level are required to carry out day-to-day operational functions within the limits of their appointments/job descriptions.

1. The Directors referred to in this scheme of delegations are:
 - a. Director of Community, Health & Leisure.
 - b. Director of Corporate Services & Governance
 - c. Director of Environment & Place
 - d. Director of Regeneration & Planning
2. Functions are to be construed in a broad and inclusive fashion and include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions
3. In exercising their delegated powers the Directors/Heads of Service must act within the law, the Council's Constitution, its Financial and Contract Procedure Rules and other procedures and policies and within appropriate service budgets.
4. In exercising their delegated powers the Directors will:-
 - a. Consult the relevant committee as appropriate
 - b. Consult any appropriate Director or relevant Head of Service, in particular where there are significant financial, legal, property or HR implications of the proposed action or decision.
5. Except where they relate to day-to-day operational matters, decisions made under this scheme must be recorded on the Delegated Decision Record and be open to public inspection unless the decision falls within the rules relating to exempt information. A quarterly report and annual report will be presented to the P&R committee detailing when the delegated authority has been exercised.
6. Directors may authorise officers within their Service area to exercise powers delegated to them. Directors must maintain proper records of such authorisation. The Director shall remain accountable for any action or decisions taken under that authority.
7. Where this Constitution permits the exercise of delegated powers by Heads of Service, such exercise is subject to the same restrictions and requirements as are applicable to Directors.

8. Any reference to an Act of Parliament includes reference to any subordinate legislation made under it and to any modification and/or replacement of it or of such subordinate legislation.
9. This scheme of delegation comes into effect on 1st April 2015.
10. Where it is impracticable to obtain authorisation from the Council body with responsibility for the function and subject to the action being reported (for information) to the next convenient meeting of the council, to take urgent action within legal powers where this is necessary in the interests of the Council, in respect of matters otherwise reserved to the Council.
11. The scheme of delegation in respect of Planning Consents, Certificates and Tree Preservation orders, other determinations and Enforcement and Main Enforcement Powers Relating to Planning Control are detailed separately in the Constitution. (approved Feb 15).

| Reference | Description of Authority | Postholder |
|-----------|--|------------|
| | General Delegation to the Chief Executive | |
| CEX 1 | In consultation, except in cases of urgency, with Council chair, to deal with any matter not reserved to another officer by law and which the CEO considers requires a decision before the next meeting of the council | CEO |
| CEX 2 | Subject to the Employment Procedure Rules and Staff Policies to be responsible for all staffing matters. | CEO |
| CEX 3 | In consultation with Council and Corporate Directors to be responsible for the strategic direction, performance, community involvement, management and overall business of the council. | CEO |
| CEX 4 | To Exercise an overall responsibility for officers' use of their delegated powers and in particular to require an officer not to exercise his/her delegated powers in any particular case or to exercise any powers delegated to any Corporate Director or other officer or to nominate any officer to exercise such power | CEO |
| CEX 5 | Signing Legal documents on behalf of the Council and authorising the affixing of the Council Seal thereto, as appropriate. | CEO |
| CEX 6 | Invoking the Council's Emergency Plan and making whatever arrangements are necessary for action thereunder | CEO |
| CEX 7 | the Chief Executive is the Head of Paid Service | CEO |
| CEX 8 | The Chief Executive will act as Proper officer for any purpose detailed within this scheme of delegation or wider constitution. | CEO |

| Reference | Description of Authority | Postholder |
|-----------|--|-----------------------------|
| | General Delegation to the Chief Executive & Directors | |
| CXCD 1 | to take any action with regard to any matter within the purview of their appointment, except for the sale and purchase of land, where appropriate and proportionate and provided the action does not conflict with agreed policies and is in accordance with the Financial Regulations. | Chief Executive & Directors |
| CXCD 2 | To delegate any of their delegated powers to other officers subject to any limitations contained elsewhere within the constitution | Chief Executive & Directors |
| CXCD 3 | To take all action necessary to implement Council and committee decisions within approved budgets and together with the Chief Executive to be responsible for the strategic direction, performance, community involvement and management of the Council and their respective Departments | Chief Executive & Directors |
| CXCD 4 | to take all operational decisions within agreed policies in relation to the service for which they are responsible | Chief Executive & Directors |
| CXCD 5 | In consultation, where appropriate, with the relevant committee approval, introduce, set and vary as necessary fees and charges for the delivery of services and for the issue of any licence, registration, permit, consent or approval. | Chief Executive & Directors |
| CXCD 6 | Within service budgets, accept tenders, place contracts and procure other resources within or outside the Council subject to compliance with the Council's Financial and Contract Procedure Rules | Chief Executive & Directors |
| CXCD 7 | Terminate contractual and other commissioning arrangements | Chief Executive & Directors |
| CXCD 8 | Serve, receive and act upon notices, give or refuse consents, issue determinations, apply for permissions, make orders, grant licences in the exercise of any discretionary power or in complying with any duty of the council. | Chief Executive & Directors |
| CXCD 9 | Exercise virement within the financial limits contained in the Financial Procedure rules | Chief Executive & Directors |
| CXCD 10 | Responding to consultation documents on matters which are routine or which do not have significant policy or financial implications for the Council. | Chief Executive & Directors |
| CXCD 11 | Instructing the Senior Solicitor 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. | Chief Executive & Directors |

| | Delegation to Directors & Heads of Service - in relation to the legislation set out in Appendix I for which the Council has responsibility | |
|--------|---|------------------------------|
| DHOS1 | enforcing all regulations, orders and bye laws made under said legislation | Directors & Heads of Service |
| DHOS2 | issuing and serving certificates and notices | Directors & Heads of Service |
| DHOS3 | granting and refusing authorisations, approvals and consents, and rejecting plans | Directors & Heads of Service |
| DHOS4 | exercising any powers in relation to the issue (but not refusal) of permits and licences | Directors & Heads of Service |
| DHOS5 | effecting (but not cancelling or refusing to effect) registrations and maintaining statutory registers | Directors & Heads of Service |
| DHOS6 | instituting legal proceedings and making legal applications on behalf of the Council | Directors & Heads of Service |
| DHOS7 | authorising individual officers for the purpose of exercising any statutory power | Directors & Heads of Service |
| DHOS8 | dispensing with or relaxing, or refusing to dispenses with or relax Building Regulations and Inviting representations thereon, and extending prescribed periods | Directors & Heads of Service |
| DHOS9 | executing works in default of compliance with any notice and in an emergency where empowered by statute, and recovering Costs | Directors & Heads of Service |
| DHOS10 | generally enforcing all other statutory powers conferred on the Council | Directors & Heads of Service |

Appendix I - LIST OF REGULATORY FUNCTIONS LEGISLATION

Animal By Products Regulations (NI) 2003

Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order
1985

Building Regulations (Northern Ireland) 1973

Building Regulations (Northern Ireland) 1977 (as amended)

Building Regulations (Northern Ireland) 1979 (as amended)

Building Regulations (Northern Ireland) 1990 (as amended)

Building Regulations (Northern Ireland) 1994 (as amended)

Building Regulations (Northern Ireland) 2000 (as amended)

Building Regulations (Northern Ireland) 2012 (as amended)

Building (Prescribed Fees) Regulations (Northern Ireland) 1997 (as amended)

Caravans Act (Northern Ireland) 1963

Caravans Act(NI)1983

Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order
1991

Children and Young Persons (Sale of Tobacco, etc.) (Northern Ireland) Regulations
2008

Cinemas (Northern Ireland) Order 1991

Civil Partnership Act 2004

Clean Air (Northern Ireland) Order 1981

Clean Neighbourhoods and Environment Act (NI) 2011

Construction Products Regulations 1991

Consumer Protection Act 1987

Control of Greyhounds etc. Act (Northern Ireland) 1950

Dangerous Dogs Compensation and Exemption Schemes Order (Northern
Ireland) 1991

Dangerous Dogs (Northern Ireland) Order 1991

Dogs (Northern Ireland) Order 1983, as amended

Dogs (Guard Dog Kennels) Regulations (Northern Ireland) 2013

European Communities Act 1972

Food and Environment Protection Act 1985

Food (Northern Ireland) Order 1989

Food Hygiene Regulations (NI) 2006

Food Safety (Northern Ireland) Order 1991

General Product Safety Regulations 2005

Hairdressers Act (NI) 1939

Health and Safety at Work (Northern Ireland) Order 1978

Health and Personal Social Services (NI) Order 1978

High Hedges Act (NI) 2011

Housing of the Working Classes Act 1885

Litter (NI) Order 1994

Local Government Act (Northern Ireland) 1972 (and bye-laws made thereunder)

Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985

Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992

The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1995

Marriage (NI) Order 2003

Petroleum (Regulation) Ads (Northern Ireland) 1929 and 1937

Planning Act (Northern Ireland) 2011

Poisons (Northern Ireland) Order 1976

Pollution Control and Local Government (Northern Ireland) Order 1978

Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013

Private Tenancies (NI) Order 2006

Public Health Acts 1878 to 1971

Public Health and Local Government (Miscellaneous Provisions) Act 1949

Public Health Acts Amendment Act 1907

Rats and Mice Destruction Act 1919

REACH Enforcement Regulations 2008

Regulation of Investigatory Powers Act 2000

Registration of Clubs (Northern Ireland) Order 1996

Rent (Northern Ireland) Order 1978

Shops (Sunday Trading etc) (Northern Ireland) Order 1997

Smoking (NI) Order 2006

Safety of Sports Grounds (Northern Ireland) Order 2006

Street Trading Act (NI) 2001

Sunbeds Act (Northern Ireland) 2011

The Controls on Ozone-Depleting Substances Regulations (Northern Ireland) 2011
The Ozone-Depleting Substances (Qualifications) Regulations (Northern Ireland) 2011
The Energy Performance of Buildings (Certificates and Inspections) Regulations (NI) 2008 (as amended)
The Fluorinated Greenhouse Gases Regulations (Northern Ireland) 2009
The Transmissible Spongiform Encephalopathies Regulations (NI) 2006
The Anti-Social Behaviour (NI) Order 2004
Town Improvement Clauses Act 1847
Town Improvement (Ireland) Act 1854
Noise Act 1996
Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2005
Waste and Contaminated Land (NI) Order 1997
Welfare Services Act (Northern Ireland) 1971
Welfare of Animals Act (NI) 2011
Welfare of Animals (Dog Breeding Establishments and Miscellaneous Amendments) Regulations (Northern Ireland) 2013

EC Regulations

Regulation (EC) No 178/2002 Laying Down the General Principles and requirements of Food Law, Establishing the European Food Safety Authority and Laying Down Procedures in matters of Food Safety
Regulation (EC) No 852/2004 The Hygiene of Foodstuffs
Regulation (EC) No 853/2004 Laying Down Specific Hygiene Rules for Food of Animal Origin
Regulation (EC) No 854/2004 Laying Down Specific Rules for the Organisation of Official Controls on Products of Animal Origin Intended for Human Consumption
Regulation (EC) No 882/2004 Official Controls Performed to Ensure the Verification of Compliance with Feed and Food law, Animal Health and Animal Welfare Rules
Regulation (EC) No. 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals.
and any Regulations made thereunder and related Regulations made under the European Communities Act 1972

