

**Committee: FULL COUNCIL**

**Agenda Item**

**Date: 8 DECEMBER 2016**

**Title: PROPOSED CHANGES TO DELEGATIONS  
TO THE ASSISTANT CHIEF EXECUTIVE -  
LEGAL**

**13**

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Item for decision

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### **Summary**

1. The Council's Scheme of Delegation contained in the Constitution delegates various powers to the Assistant Chief Executive – Legal. The holder of this post left the Council at the beginning of August and recent re-organisation has resulted in the interim appointment of a Head of Legal Services.

### **Recommendations**

2. That the delegated powers of the Assistant Chief Executive – Legal are assigned in accordance with the appendix to this report.
3. That the Council acknowledges that officers to whom powers are delegated may, in turn, authorise other officers to exercise powers on their behalf.

### **Financial Implications**

4. None arising from this report.

### **Background Papers**

5. None.

### **Impact**

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Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	It is important that the Council has a clear and up to date scheme of delegation.

Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

## Situation

7. The Council's Scheme of Delegation contained in the Constitution delegates various powers to the Assistant Chief Executive – Legal. The holder of this post left the Council at the beginning of August and recent re-organisation has resulted in the deletion of the ACE – Legal post.
8. These changes were anticipated by a decision of full Council on 28 July 2016. Council resolved:
  - That the powers delegated to the Assistant Chief Executive – Legal by the council's Scheme of Delegation be delegated to Mrs Oliva.
9. Mrs Oliva has left the Council and the scheme of delegation needs to be brought up to date. The other factor is the transfer of licensing responsibilities to the Assistant Director, Housing and Health. requiring delegated powers vested in her need to be placed elsewhere. In addition, the Council resolution of 28 July only covers delegation of Council functions.
10. In practice, functions delegated to a senior officer will frequently be carried out by more junior officers within the service for which they are responsible. For avoidance of any doubt, the recommendation asks Council to acknowledge this.
11. A separate report to Council with recommendations from the Constitution Working Group recommends that officers be given authority to update the Scheme of Delegation to reflect, amongst other things, changes to organisational structure.

## Risk Analysis

10.

Risk	Likelihood	Impact	Mitigating actions
A greater risk of challenges to officer decisions if the council does not have a clear and up to date scheme of delegation.	2. Procedural challenges are always a possibility, whether or not well-founded.	3. A successful challenge to an officer decision could undermine actions taken. Challenges, even if unsuccessful, can be expensive to defend.	Keeping the Council's scheme of delegation up to date.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

### Appendix:

Power	Responsibility
1. Authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal including any appeals	Head of Legal Services
2. Authorise officers of the Council to appear on behalf of the Council before courts and tribunals	Head of Legal Services
3. Grant applications for licenses and for registration of premises, persons and vehicles and the amendment or transfer of such licenses or registrations where such applications meet policy guidelines adopted by the Council or the Licensing and Environmental Health Committee	Assistant Director, Housing and Health
4. Determine whether representations made in respect of licensing matters or applications for reviews of licences are valid or may be rejected as being vexatious, frivolous or repetitious	Assistant Director, Housing and Health
5. Refusal of licenses and registrations where such applications do not meet policy guidelines adopted by the Council or the Licensing and Environmental Health Committee	Assistant Director, Housing and Health
6. Issue of statutory notices and certificates	Assistant Director, Housing and Health and Head of Legal Services
7. Issue of statutory notices, registrations and	Assistant Director, Housing

certificates in respect of charitable collections and gaming	and Health
8. To suspend licenses issued under Part II Local Government (Miscellaneous Provisions) Act 1976 for a period not exceeding 2 weeks where there has been a breach of condition or an alleged offence where in the view of the Head of Legal Services a prosecution would not be appropriate	Assistant Director, Housing and Health
9. To suspend licenses under s.61 Local Government (Miscellaneous Provisions) Act 1976 (as amended) immediately if in his or her opinion it is in the interests of public safety that the suspension should have immediate effect such suspension to last until the day after the next meeting of the Licensing and Environmental Health Committee	Assistant Director, Housing and Health
10. Subject to the provision of a satisfactory statutory declaration to grant an application for a licence where the Council requires a criminal record check where the applicant is in possession of a check to the level required by the Council which is not more than 18 months old and to revoke any licence if a false declaration is made.	Assistant Director, Housing and Health
11. To grant licences in cases where a driver has a pending prosecution for a motoring offence which is in the opinion of the Head of Legal Services is unlikely to attract 6 points or more on the drivers licence	Assistant Director, Housing and Health
12. Subject to the provision of a satisfactory statutory declaration to grant an application for renewal of a licence granted by the Council where the Council requires a criminal record check but a check to the level required by the Council is not immediately available and to revoke any licence if a false declaration is made.	Assistant Director, Housing and Health
13. To grant applications for consent to place tables and chairs and other items on pedestrian areas of the highway subject to conditions where such applications fall within the policy previously adopted by the Licensing Committee or any amendment or amendments thereto made by the Licensing and Environmental Health Committee and to refuse applications which do not fall within that policy	Assistant Director, Housing and Health