

# **Forest Heath District Council**

## **Section 4 - Scheme of Delegation to Officers**

### **A. General**

1. This section of the Scheme for the Responsibility for Functions delegates powers and duties of St Edmundsbury Borough Council/Forest Heath District Council to Officers under Section 101 of the Local Government Act 1972, and all other powers enabling delegations, but is not intended to be by way of limitation of the powers provided in that Section.
2. It is also adopted with the intent that it shall lead to a streamlining and simplification of the processes of the Council and, accordingly, it should be interpreted widely rather than narrowly.
3. Where broad functional descriptions are used, the delegations in this scheme should be taken to include powers and duties within all present and future legislation, and all powers incidental to that legislation, including the incidental powers and duties under Section 111 of the Local Government Act 1972.
4. This scheme of delegations shall operate in addition to any previous, or short-term, delegations. Prior to each update of this document, it may also be superseded by revised or new delegations, properly agreed in accordance with the Council's Constitution but not yet incorporated.
5. In this scheme of delegations any reference to a specific Statute, Statutory Instrument, Regulation, Byelaw, Order, or any section, article, paragraph or part thereof, shall be deemed to incorporate reference to any enactment amending, re-enacting, or replacing the same.
6. Any reference to the masculine includes the feminine and vice versa.

### **Overall Limitations**

7. This scheme does not delegate to Officers:-
  - (a) any matter reserved by law to the Council, the Cabinet, a Committee or Sub-Committee of the Council; and
  - (b) any matter which is specifically excluded from delegation by the scheme or by resolution of the Council or Cabinet.
8. Officers may only exercise delegated powers in accordance with:-
  - (a) the Council's Rules of Procedure contained in Part 4 of this Constitution including the Financial Procedure Rules and Contract Procedure Rules;

- (b) all plans, policies, schemes or strategies approved by or on behalf of the Council;
- (c) any statutory restrictions, guidance or statutory code of practice;
- (d) the statutory and local requirements in respect of the taking and recording of Key Decisions;
- (e) the revenue and capital funding for the relevant service as approved by the Council, subject to any variations which are permitted by virtue of the Council's Rules of Procedure; and
- (f) the Council's Equal Opportunities and other policies, procedures, standards and the Local and National Conditions of Service.

### **Sub-Delegation**

- 9. Any Officer with delegated powers in this scheme is also authorised to further delegate in writing all or any of the delegated functions to other officers (described by name or post) either fully or under the general supervision and control of the delegating officers. Sub-delegations shall be recorded in a register kept by the Monitoring Officer. Administrative functions ancillary to the exercise of delegated powers are deemed to be carried out in the name of the officer exercising the function.

### **Further Provisions**

- 10. It shall always be open to an Officer not to exercise his or her delegated powers but to refer the matter to the Council, Cabinet, or relevant Committee (as appropriate) for decision.
- 11. In exercising delegated powers, Officers shall consult other Officers as appropriate and have regard to any advice given. In particular, Officers must have regard to any report by the Head of Paid Service or the Monitoring Officer under Sections 4 and 5 of the Local Government and Housing Act 1989 or of the Chief Finance Officer under Section 114 of the Local Government and Housing Act 1988.
- 12. In exercising delegated powers, Officers shall consider whether the matter is controversial or significant and if so shall as appropriate consult or inform the relevant Portfolio Holder and/or Ward Member(s).

### **Delegation in the case of absence or inability to act**

- 13. If the following Officer/s having delegated authority under the Scheme are absent or otherwise unable to exercise their delegation, and there is no other officer to whom the authority has been sub-delegated, these provisions shall apply:

**Assistant Director (Resources and Performance)** – the Service Manager (Finance and Performance) shall be responsible for the administration of the financial affairs of the Council pursuant to Section

151 of the Local Government Act 1972 and to act generally as the Council's Chief Finance Officer under the terms of the Local Government Act 1988.

**Other Assistant Directors** – the powers shall be exercisable by a Director.

**Service Managers** – the powers shall be exercisable by the relevant Assistant Director.