

DELEGATION OF POWERS TO OFFICERS – HOUSING AND ENVIRONMENT

1. INTRODUCTION

- 1.1 The Council operates an extensive scheme of delegation of powers to officers that allows the authority to act promptly and effectively. The Head of Housing has asked for certain delegations to be updated to reflect changes in establishment and working practices.

2. THE PROPOSED CHANGES

- # 2.1 The proposed changes to the scheme of delegation of powers to the officers are attached as Appendix 1 to this report. Proposed deletions are shown in text which is ~~crossed through~~, while proposed additions are shown *in bold italics*.
- 2.2 The proposed change to the power delegated under number 493 relates to Notices to Quit and Possession Orders. At the moment any decision relating to somebody of pensionable age would need Member approval. Current practices for the assessment of the sensitivities relating to such cases are now robust and take account of a wider range of vulnerabilities than just age. In addition, very few of these Notices and Order lead to actual evictions, which require further decisions and processes to be followed.
- 2.3 Some proposed deletions of delegations are proposed where the power is no longer needed.
- 2.4 It is proposed to radically simplify the delegation under the Housing Act 2004. Very specific delegations were granted, by section. In the event however, most of the powers are delegated to the same officers. It is therefore proposed to amalgamate them all into a more generic format.
- 2.5 With respect to the Employment, Health and Wellbeing Portfolio, some of the Council's "environmental health" functions are carried out by the Housing Technical Team. As staffing structures have evolved, the scheme of delegations has not reflected some of the changes of responsibility

3. CRIME AND DISORDER, ENVIRONMENTAL, FINANCIAL AND EQUALITY IMPLICATIONS

- 3.1 None arising from this report. This is merely an adjustment to existing arrangements.

4. PORTFOLIO HOLDERS COMMENTS

- 4.1 The Housing Portfolio Holder and the Employment, Health and Wellbeing Portfolio Holder support the recommendations proposed.

5. RECOMMENDED:

- # 5.1 That the changes to the scheme of delegation of powers to officers, as attached as Appendix 1 to this report, be approved.

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Background Papers:

Attached

DELEGATION OF POWERS TO OFFICERS

HOUSING PORTFOLIO

No	Source	Power Delegated	Delegation To
490	Housing Act 1985 Part II (as amended)	<p>To deal with –</p> <p>(a) The exchange of tenancies between the Council’s tenants and those of other Local Authorities, Housing Associations and private landlords</p> <p>(b) The transfer of tenancies to widows/widowers, joint tenants, partners, separated spouses, sons, daughters, brothers, sisters and other family members</p> <p>(c) The allocation of garages and the issue of Notices to Quit</p>	<p>Housing Estates Manager or, in the event only of the contractor defaulting on the housing management contract, the or Housing Needs Manager, Assistant Housing Needs Manager or Neighbourhood and Tenancy Management Officer</p> <p>Allocations Officer, or Housing Income Recovery Manager, or Senior Housing Income Recovery Officer</p>
491	Housing Act 1985 Part II (as amended) and Housing Act 1996 Part VI	<p>To deal with –</p> <p>(a) The transfer of existing tenants</p> <p>(b) The allocation of tenancies to tenants of properties subject to Closing Orders, Demolition Orders and Undertakings not to use until the</p>	<p>Housing Needs Manager, or Assistant Housing Needs Manager, or Allocations Officer</p> <p>Housing Needs Manager, or Assistant Housing Needs Manager, or Allocations Officer</p>

		<p>premises are made fit</p> <p>(c) The allocation and termination of licences for Council-owned residential caravan sites</p> <p>(d) The allocation of estate shop tenancies and the issue of Notices to Quit</p>	<p>Head of Housing</p> <p>Valuer, in consultation with the Head of Housing</p>
492	Housing Act 1996 Demoted Tenancies (Review of Decisions) (England) Regulations 2004	<p>That the following delegation arrangements be approved:</p> <p>Authority to apply to the County Court for the Demotion Order</p> <p>Authority to issue a Notice of Proceedings</p> <p>To appoint the pool of officers to comprise the Review Panel and to select any two to sit to determine a review</p> <p>To appoint a Member of the Appeals Committee to the Review Panel, to sit with Officers to determine a review</p> <p>In case of urgency, to conduct the review hearing</p>	<p>Housing Estates Manager or Senior Neighbourhood and Tenancy Management Officer</p> <p>Housing Estates Manager or Senior Neighbourhood and Tenancy Management Officer</p> <p>Head of Housing, or Executive Director</p> <p>Head of Housing, in consultation with the Head of Legal and Democratic Services</p> <p>Head of Housing, or Executive Director</p>
493	Housing Act 1985 Part IV (as amended)	To issue Notices to Quit and Notices of Seeking Possession and to determine whether to apply for	Head of Housing, or Housing Estates Manager, or Income Recovery

		Possession Orders, except for cases involving OAPs	Manager, or Senior Neighbourhood and Tenancy Management Officer, or Senior Income Recovery Officer, or Neighbourhood and Tenancy Management Officer, or Income Recovery Officer
494	Housing Act 1985 Part IV	To authorise tenants to erect structures and fittings	Head of Housing, or Housing Technical Manager, Housing Estates Manager, or Income Recovery Manager, or Senior Neighbourhood and Tenancy Management Officer, or Senior Income Recovery Officer, or Neighbourhood and Tenancy Management Officer, or Income Recovery Officer
496	Local Government Act 2000 s.15	To agree the works to be carried out at specific addresses under the planned maintenance programme, within the budget head allocated by the Council	Head of Housing, or Housing Technical Manager
499	Housing Act 1985 Part IV (as amended)	To deal with persistent rent arrears offenders as considered appropriate rather than in accordance with the Council's procedure for dealing with cases	Housing Technical Manager, Housing Income Recovery Manager -or Head of Housing
501	Housing Act 1996 Part VI	To decide on applications for transfers by tenants with rent arrears where the tenant is eligible for transfer on medical or social grounds, and physical hardship would be caused by preventing a transfer	Housing Needs Manager, or Assistant Housing Needs Manager, or Allocations Officer

502	Housing Act 1985 Part II (as amended) and Housing Act 1996 Part VI	To exercise discretion in making the best use of the Council's housing stock and in appropriate circumstances – (a) If requested, to grant a joint tenancy to a member of the household where he/she can demonstrate that he/she has a long-term commitment to the home (b) When a tenant dies, to grant usually a tenancy of the home or suitable alternative accommodation to a member of the household who has been living with the tenant for the year before the tenant's death, has been looking after the tenant or has accepted responsibility for the tenant's dependants Subject to disputes over the allocation of tenancies being referred to the Housing Portfolio Holder	Housing Needs Manager, or Assistant Housing Needs Manager
503	Local Government Act 200 s.15	To agree requests for rent-free garages subject to:- (a) the organisation being non-profit making; (b) there being no existing demand for the garage; (c) the tenancy being terminated should a demand arise for the garage	Housing Needs Manager, or Assistant Housing Needs Manager or Allocations Officer
504	Landlord and Tenant Act 1985 s.19 as amended	To vary annually the scale of charges for repairs undertaken by the Council on behalf of tenants	Head of Housing, or Housing Technical Manager
505	Landlord and Tenant Act 1985 s.19 as amended	To waive recharges for repairs undertaken by the Council on behalf of tenants in cases of severe hardship	Head of Housing, or Housing Needs Manager

507	Housing Act 1985 s.123	Where a tenant has requested that the 'Right to Buy' be shared by not more than 3 members of his or her family and one or more of those members has not resided in the dwelling for the required period of 12 months, to accept a lesser period if it is considered that the circumstances are warranted	Housing Contracts Manager, Housing Income Recovery Manager
509	Housing Act 1985 (as amended) and Leasehold Reform, Housing and Urban Development Act 1993 Part II	To determine whether a property is suitable for elderly persons and is thereby exempt from the Right to Buy	Housing Contracts Manager, Housing Income Recovery Manager
510	Housing Act 1985 (as amended) and Leasehold Reform, Housing and Urban Development Act 1993 Part II	To exercise discretion in the issue of the following notices:- (a) Notice to respond to the offer of sale (b) Notice to respond to the notice admitting or denying the tenants' rent to mortgage claim (c) Notice to complete under rent to mortgage terms	Housing Contracts Manager, Housing Income Recovery Manager
520	Housing Act 1985 Part V	To decide on all offers to re-convey properties to the Council:- (i) Where the owners are required to offer the property under a 10 year pre-emption covenant or where the owners are having difficult selling privately and there is a clear need for the property, the price to be paid for each property to be no more than the current market value with vacant possession as	Head of Housing

		<p>assessed by the Head of Consultancy Services</p> <p>(ii) Where the owners have found themselves in financial or domestic difficulties and wish to revert to being Council tenants, the properties be purchased with sitting tenants at reduced value only if there are pressing social grounds. Subject to review by the Appeals Committee where the owner is aggrieved by a decision not to re-purchase</p> <p><i>To exercise discretion not to demand that former social tenants repay part or all of any discount due following disposal of a property previously purchased under the Right to Buy</i></p>	<i>Head of Housing</i>
512	Housing Act 1996 Part VII	To grant awards under the Deposit Guarantee Scheme for homeless households to rent private dwellings	Housing Needs Manager, <i>or Assistant Housing Needs Manager</i>
513	Housing Act 1988	To waive, in exceptional circumstances, the requirement for applicants under the tenants' house purchase incentive scheme to have been tenants of the Council for a minimum of three years	Executive Director, or Head of Housing, in consultation with the Housing Portfolio Holder
514	Housing Act 1985 Part II And Housing Act 1988	To approve the costs to be reimbursed under the incentive to move to smaller accommodation scheme, up to a maximum of £3,000	Housing Needs Manager, <i>or Assistant Housing Needs Manager</i>
515	Rent Act 1977	Where the Council becomes liable as landlord for payment of Council Tax, to serve the appropriate notices on tenants increasing service charges by an appropriate amount to recover the cost in full	Housing Contracts Manager, <i>Housing Income Recovery Manager</i>

525	Housing Act 1985 Part X (as amended)	To carry out all the functions of the Council under Part X (overcrowding)	Head of Housing, or Housing Technical Manager or Operations Manager (Housing Improvements)
526	Housing Act 1985 Part IX and Local Government and Housing Act 1989 Part VIII	To carry out all the functions of the Council under Part IX (Unfit Premises) of the Housing Act 1985 and Part VIII (Grants towards Cost of Improvements and Repairs etc) of the Local Government and Housing Act 1989 Needs updating In consultation with the Housing Portfolio Holder and the Local Member(s) if the Director considers the case to be of a marginal/sensitive nature, and subject to review by Appeals Committee where an applicant is aggrieved by a decision	Head of Housing, or Housing Technical Manager, or Operations Manager (Housing Improvements)
527	Housing Act 2004	With respect to homes in multiple occupation: To issue temporary exemption notices To include conditions in the licence To issue the licence To vary or revoke the licence To prosecute for offences for non-licensed HMOs To apply to the Residential Property Tribunal for a Rent Repayment Order	Head of Housing, or Housing Technical Manager, or Operations Manager (Housing Improvements)
528	Local Government (Miscellaneous Provisions) Act 1976 s.33 as amended	To carry out all the functions of the Council for the continuation of the supply of water, gas or electricity	Head of Housing or, in his or her absence, or Housing Technical Manager, or Operations Manager (Housing Improvements)

529	Local Government (Miscellaneous Provisions) Act 1982 Part XI as amended	To carry out all the functions of the Council under Part XI (Prevention of Unauthorised Entry or Danger to Public Health)	Head of Housing or, in his or her absence, Housing Technical Manager, or Operations Manager (Housing Improvements)
530	Building Act 1984 s.76 as amended	To carry out all the functions of the Council to require immediate works to repair defective premises	Head of Housing or, in his or her absence, Housing Technical Manager, or Operations Manager (Housing Improvements)
531	Housing Grants, Construction and Regeneration Act 1996 Part 1 Subject to review of individual applications by the Appeals Committee if an applicant is aggrieved by a decision	All the powers under Part 1 of the Act (Grants for renewal of private sector housing)	Head of Housing or, in his or her absence, Housing Technical Manager
532	Housing Grants, Construction and Regeneration Act 1996 Sections 81 to 84 inclusive Needs updating	All the powers under Sections 81 to 84 inclusive of the Act (Deferred Action Notices)	Head of Housing or, in his or her absence, Housing Technical Manager
533	Housing Act 1985 Housing Grants Construction and Regeneration Act 1996 and Housing (Fitness	All the powers under the Order ("minded to take action" notices)	Head of Housing or, in his or her absence, Housing Technical Manager, or Senior Building Surveyors in Housing Strategic Services, or Building Surveyors in Housing

	Enforcement Procedures) Order 1996 Needs updating		Strategic Services or Operations Manager (Housing Improvements)
534	Housing Grants, Construction and Regeneration Act 1996 Sections 87 and 88	All the powers under Sections 87 and 88 of the Act (power to charge for enforcement action)	Head of Housing or, in his or her absence, Housing Technical Manager
535	Housing Act 2004	To issue, serve, vary or revoke any Order or Notice, issue any Authorisation, license or permit, carry out inspections or take any other action under the Act	Head of Housing, or Housing Technical Manager, or Operations Manager (Housing Improvements), or Home Health and Safety Surveyors
		To make all necessary applications to Court under the Act, to require production of documents and to recover any expenses incurred by the Council	Head of Housing, or Housing Technical Manager, or Operations Manager (Housing Improvements), or Home Health and Safety Surveyors, or Head of Legal and Democratic Services, or Solicitors, or Employed Barrister
535	Housing Act 2004	Section 4 - To carry out inspections to see whether any category 1 or 2 hazards exist	Head of Housing, or Operations Manager (Housing Improvements), or Home Health and Safety Surveyors
		Section 11 - To serve an Improvement Notice for Category 1 hazard	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors or Operations Manager (Housing Improvements)
		Section 12 - To serve an Improvement Notice for a Category 2 hazard	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors or Operations Manager (Housing Improvements)

		Section 14 — To suspend an Improvement Notice	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors or Operations Manager (Housing Improvements)
		Section 16 — To revoke or vary an Improvement Notice	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors or Operations Manager (Housing Improvements)
		Section 17 — To review a suspended Improvement Notice and give notice of the decision on a review	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors or Operations Manager (Housing Improvements)
		Section 20 — To make and serve a Prohibition Order in respect of Category 1 Hazards	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors or Operations Manager (Housing Improvements) Improvements)
		Section 21 — To make and serve a Prohibition Order in respect of Category 2 hazards	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors or Operations Manager (Housing Improvements)
		Section 23 — To suspend a Prohibition Order	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors or Operations Manager (Housing Improvements)

		Section 25 — To revoke or vary a Prohibition Order	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors or Operations Manager (Housing Improvements)
		Section 26 — To review a suspended Prohibition Order and to serve notice of the decision of any review	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors or Operations Manager (Housing Improvements)
		Section 28 — To serve a Hazard Awareness Notice relating to a category 1 hazard	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors or Operations Manager (Housing Improvements)
		Section 29 — To serve a Hazard Awareness Notice for a category 2 hazard	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors or Operations Manager (Housing Improvements)
		Section 31 and Schedule 3 — To take action in respect of an Improvement Notice	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors or Operations Manager (Housing Improvements)
		Section 31 and Schedule 3 — To recover related expenses following action	Head of Housing, or Housing Technical Manager, or Operations Manager (Housing Improvements), or Senior Building Surveyors, or Head of Legal and Democratic Services, or Solicitors, or Employed Barrister

		Section 40 and 41 — To take emergency remedial action where there is a category 1 hazard and to serve the requisite notices	Head of Housing, or Housing Technical Manager, or Operations Manager (Housing Improvements), or Senior Building Surveyors, or Building Surveyors subject to consultation with the Fire and Rescue Authority in respect of a fire hazard, in accordance with Section 10
		Section 42 — To recover expenses after taking emergency remedial action*	Head of Housing, or Housing Technical Manager, or Operations Manager (Housing Improvements) Senior Building Surveyors, or Head of Legal and Democratic Services, or Solicitors, or Employed Barrister
		Section 43 — To serve an emergency prohibition order for category 1 hazard	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors, or Building Surveyors or Operations Manager (Housing Improvements)
		Section 46 (Housing Act 1985 s 265) — To serve a demolition order for category 1 or 2 hazards	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors
		Section 47 (Housing Act 1985, S 289) — To declare a clearance area	Head of Housing, or Housing Technical Manager
		Sections 49 and 50 — To make a charge for enforcement action and to recover costs	Head of Housing, or Housing Technical Manager, Operations

			Manager (Housing Improvements), or Senior Building Surveyors, or Head of Legal and Democratic Services, or Solicitors, or Employed Barrister
		Section 62 — To serve a temporary exemption from the licensing requirement for HMOs	Head of Housing, or Housing Technical Manager, or Operations Manager (Housing Improvements)
		Sections 64, 69 and 70 — To grant or refuse a licence for an HMO, to vary or revoke the licence	Head of Housing, or Housing Technical Manager, or Operations Manager (Housing Improvements)
		Section 73 — To apply for a rent repayment order and to serve the requisite notices	Head of Housing, or Housing Technical Manager
		Section 96 — To apply for a rent repayment order and to serve the requisite notices	Head of Housing, or Housing Technical Manager
		Sections 102, 111 and 112 — To make, vary and revoke interim management orders	Head of Housing, or Housing Technical Manager
		Sections 113, 121 and 122 — To make, vary and revoke final management orders	Head of Housing, or Housing Technical Manager
		Section 131 — Power of entry to carry out works where management order is in force, and to appoint, in writing, persons to enter the premises to carry out the work	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors, or Building Surveyors Operations Manager (Housing Improvements)

		Section 133 — To make an interim empty dwelling management order	Head of Housing, or Housing Technical Manager
		Section 136 — To make a final empty dwelling management order	Head of Housing, or Housing Technical Manager
		Section 139 — To serve an overcrowding notice	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors Operations Manager (Housing Improvements)
		Section 144 — To revoke and vary overcrowding notices	Head of Housing, or Housing Technical Manager, or Senior Building Surveyors Operations Manager (Housing Improvements)
		Section 235 — To serve notice requiring documents to be produced	Head of Housing, or Housing Technical Manager, or Operations Manager (Housing Improvements) or Senior Building Surveyors, or Head of Legal and Democratic Services, or Solicitors, or Employed Barrister
		Section 239 — To enter premises for purposes of carrying out a survey or examination	Head of Housing, or Housing Technical Manager, or Operations Manager (Housing Improvements) or Home, Health and Safety Senior Building Surveyors, or Building Surveyors

		Section 239 — to be the Proper Officer for determining if a survey or examination is necessary (Appointment must be ratified by Council)	Housing Technical Manager
		Section 255 and 256 — To serve, and to revoke, an HMO determination notice	Head of Housing, or Housing Technical Manager, or Operations Manager (Housing Improvements)

ENVIRONMENT PORTFOLIO

No	Source	Power Delegated	Delegation to
408	Environmental Protection Act 1990 Part 111	To enforce the provisions of Part iii of the Act and to serve notices to abate Statutory nuisances as defined in s 79	Head of Public Health and Community Safety, or Environmental Health Manager, or Senior Environmental Health Officer, or Environmental Health Officer, or Housing Technical Manager, or Operations Manager (Housing Improvements)
420	Various Acts	To serve and relevant notice, issue any necessary authorisation, licence or permit and inspect where applicable at any reasonable time any premises and enforce the relevant legislation for the purposed specified in the Acts for environmental health functions which are a Cabinet responsibility.	Head of Public Health and Community Safety, or Environmental Health Manager, or Health Policy Development Manager, or Corporate Health and Safety Manager, or Senior Environmental Health Officer, or Environmental Health Officer, or Housing Technical Manager, or Operations Manager (Housing Improvements)