

MUNICIPAL YEAR 2008/2009 REPORT NO. 33

MEETING TITLE AND DATE:

Council 25th June 2008

REPORT OF:

Director of Environment and Street Scene

Agenda – Part: 1	Item: 8
Subject: Delegated Authority Within Environmental Protection And Regulation	
Wards: All	
Cabinet Member consulted: Cllr Terence Neville	

Contact officer: Esther Cook 020 8379 8524 or e-mail esther.cook@enfield.gov.uk

1. EXECUTIVE SUMMARY

This report updates arrangements in respect of delegated powers within Environmental Protection and Regulation as a consequence of changes in legislation and posts.

2. RECOMMENDATIONS

To agree and confirm the delegated authorities identified at Appendix A.

3. BACKGROUND

- 3.1 This report updates previously agreed delegations to incorporate changes arising from new legislation and posts.
- 3.2 This Report seeks agreement to, and confirmation of, the delegated authorities shown in the updated Appendices.
- 3.3 Proceedings are issued in the name of the Borough Solicitor where he has conduct of the case.

4. ALTERNATIVE OPTIONS CONSIDERED

None.

5. REASONS FOR RECOMMENDATIONS

This is an ongoing process to ensure that the Council has effectively and legally delegated its statutory powers to officers.

6. COMMENTS OF THE DIRECTOR OF RESOURCES AND OTHER SERVICE GROUPS

6.1 Financial Comments

6.1.1 There are no specific financial implications arising from these recommendations.

6.2 Legal Comments

6.2.1 Under Section 101 of the Local Government Act 1972, Local Authorities have a general power to discharge their functions through officers.

6.2.2 The power to appoint Proper Officers to discharge these functions comes from sections 112, 234 and 270 (3) of the Local Government Act 1972 and sections 69 and 72 of the Weights and Measures Act 1985, and section 18 and 19 of the Health and Safety at Work etc Act 1974.

6.2.3 Paragraph 11.3 of the Constitution of the Council authorises the Borough Solicitor to institute, defend or participate in any legal proceedings. The delegation of authority sought in this respect will continue the existing arrangement to provide parallel authority to that vested in the Borough Solicitor.

6.2.4 The current arrangements within the legal department are adequate to ensure that there is compliance with the Constitution arrangements of the Council and the legal requirements needed to discharge their functions through officers for prosecutions work in the Council.

7. COMMUNITY IMPLICATIONS

7.1 There are no direct implications for members of the public in respect of this report as no changes to frontline services are proposed.

8. PERFORMANCE MANAGEMENT IMPLICATIONS

8.1 No specific implications.

9. PUTTING ENFIELD FIRST

The statutory powers within this report are essential for the Services to contribute towards the Council's vision by promoting Aim 1, A Cleaner Greener Enfield and Aim 3, A Safer Enfield To Live, Work, Study and Do Business, objective 3A To Reduce Crime and Fear of Crime by contributing to the Crime and Disorder Reduction Strategy.

10. Background Papers

None.

Appendix A- Delegated Authority

- 1.1 Pursuant to section 101 of the Local Government Act 1972, powers are delegated to the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit, in respect of those matters listed in paragraphs 1.2-1.23 below.
- 1.2 That the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit, be appointed as Proper Officers and have delegated power to appoint Proper Officers pursuant to sections 112, 234, 270 (3) of the Local Government Act 1972 for the purposes of signing all Notices, Orders, Licences and other documents, given, made or issued by them on behalf of the Council under the legislation in Appendix B.
- 1.3 That the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit, and Team Leaders under the direction of the Service Head, be authorised pursuant to Section 223 of the Local Government Act 1972 to institute proceedings in any Magistrates Court in respect of offences or other matters falling within the legislation in Appendix B;
- 1.4 That the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit, be authorised under Section 223 of the Local Government Act 1972 to appear on behalf of the Council before any Magistrates Court in relation to proceedings instituted by them;
- 1.5 That there be delegated to the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit, the power to authorise officers of the Service to appear on behalf of the Council in any Magistrates Court under Section 223 of the Local Government Act 1972 in relation to proceedings instituted for legislation shown at Appendix B.
- 1.6 That there be delegated to the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit, the power to authorise officers to exercise powers and duties falling within the legislation referred to at Appendix B, subject where appropriate to officers holding the appropriate qualification;
- 1.7 That there be delegated to the Assistant Director (Environmental Protection and Regulation) and Head of Trading Standards and Licensing the power to institute proceedings and bring contempt of court action in relation to the Enterprise Act 2002 and for Trading Standards and Licensing Team Leaders to be delegated the power to seek and receive voluntary undertakings under the aforesaid legislation.

- 1.8 That there be delegated to the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit and Team Leaders;
- 1.8.1 Power to authorise officers to serve and sign in their own name all improvement and prohibition notices in food safety and health & safety enforcement and
- 1.8.2 Power to authorise officers to serve and sign in their own name all relevant notices in accordance with the legislation listed under Appendix B and
- 1.8.3 All authorisation, variation, revocation, enforcement and prohibition notices under; local authority pollution control enforcement and
- 1.8.3 The power to institute civil proceedings under section 2 of the Local Government Act 2000 to protect the economic, social or environmental well-being of the community.
- 1.9 That the powers of suspension and forfeiture provided by the Consumer Protection Act 1987 and the European Communities Act 1972 be delegated to the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing and Team Leaders;
- 1.10 That there be delegated to the Assistant Director (Environmental Protection and Regulation) and Head of Trading Standards and Licensing, the power:
- 1.10.1 to authorise officers to sign licences (as required by various statutes in Appendix B and listed at Appendix C) on behalf of the Head of Trading Standards and Licensing and the powers of the Council as registration authority under the various statutes in Appendix C.
- 1.11 That in cases of serious consumer fraud the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit, and Team Leaders under the direction of a Head of Service be delegated authority to institute proceedings under the Criminal Law Act 1977, Criminal Attempts Act 1981 and Common Law Conspiracy to Defraud;
- 1.12 That the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health, and Head of Environmental Crime Unit, be responsible for the discharge of the functions of the Local Authority relating to the appointment and duties of Environmental Health Officers or Technical Officers in the Service;
- 1.13 The Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit, be empowered pursuant to Schedule 1 Section 14 of the Pollution Prevention and Control Act 1999, to appoint as inspectors

such persons having suitable qualifications as he or she thinks necessary for carrying into effect the provisions of the Act and to terminate any appointment made;

- 1.14 That the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit, be responsible for arranging for the signature and service of Notices under the provisions of Sections 80 and 80(A) Environmental Protection Act 1990;
- 1.15 That the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit, be empowered pursuant to section 108 of the Environment Act 1995 to authorise persons as necessary for carrying into effect the provisions of the Act;
- 1.16 That the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit, be empowered pursuant to Schedule 1, Part 1 paragraph 14 of the Pollution Prevention Control Act 1999 to authorise persons as necessary for carrying into effect the provisions of the Act;
- 1.17 That the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit, be authorised to:
 - 1.17.1 Appoint Animal Welfare Officers to enter premises and to take action under enactments listed in Appendix B;
 - 1.17.2 Instruct, on behalf of the Council, such veterinary surgeon(s) to enter any premises to advise as necessary on action to be taken under the animal welfare legislation listed in Appendix B.
- 1.18 That the Assistant Director (Environmental Health Protection and Regulation) and Head of Licensing and Trading Standards be given delegated authority to nominate:
 - 1.18.1 A Consultant in Communicable Disease Control and their deputies to perform duties on behalf of the Council in respect of Notifiable Disease, Infections and food poisoning and for action under Section 47 of the National Assistance Act 1948 and
 - 1.18.2 Council Public Analysts in accordance with Section 27 of the Food Safety Act 1990 and Agricultural Analysts for the purposes of the Agricultural Act 1970;
- 1.19 The Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing and Head of Environmental Health be empowered:

- 1.19.1 pursuant to Section 19 of the Health and Safety at Work etc Act 1974, to appoint as Inspectors such persons having suitable qualifications as he or she thinks necessary for carrying into effect the provisions of the Act and to terminate any appointment made; and
- 1.19.2 pursuant to Section 39 of the Health and Safety at Work etc Act 1974, to authorise any such Inspectors to prosecute before a Magistrates' Court for any offence under the said Act or Regulations made there under and
- 1.19.3 be given delegated powers to arrange for other people to accompany Inspectors on Inspections of Work Places under the provisions of the Health and Safety at Work etc. Act 1974 and
- 1.19.4 on behalf of the Local Authority be given delegated powers to endorse any agreed transfers of enforcement responsibility for any particular premises, or parts of premises, or any particular activities carried on in them, from the Health and Safety Executive to the Local Authority, or vice versa and;
- 1.19.5 be given delegated powers to issue a Sports Ground Safety Certificate under the Safety of Sports Grounds Act 1975;
- 1.20 That named officers as authorised by the Assistant Director (Environmental Protection and Regulation), Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit, be delegated power to authorise directed surveillance, interception of communications and the use of covert human intelligence sources in accordance with the requirements of the Regulation of Investigatory Powers Act 2000. (The Assistant Director of Environmental protection and Regulation to maintain a record of duly authorised named officers holding the above posts and such other posts which satisfy the requirements of the Council's policy relating to the Regulation of Investigatory Powers Act 2000).
- 1.21 That the Assistant Director (Environmental Protection and Regulation) and Head of Trading Standards and Licensing be authorised to take appropriate enforcement action against (including prosecution) contraventions of non-mandatory trading legislation in cases where they determine it is expedient to do so in the interests of consumer protection, fair trading or wider public protection considerations;
- 1.22 That the powers of the Council to provide advice to consumers of goods and services under Section 69(5) of the Weights and Measures Act 1985 be delegated to staff duly authorised for that purpose by the Assistant Director (Environmental Protection and Regulation) and Head of Trading Standards and Licensing.
- 1.23 That there be delegated to the Assistant Director (Environmental Protection and Regulation), Assistant Director Planning and Transportation, Assistant

Director Contracts, Assistant Director Street Scene and Parks, Head of Trading Standards and Licensing, Head of Environmental Health and Head of Environmental Crime Unit, the power to authorise officers to exercise powers and duties falling within the legislation referred to below in accordance with paragraphs 1.2, 1.3, 1.4 and 1.6 above.

Anti-social Behaviour Act 2003

Part 6 The Environment

Section 40 Closure of noisy premises

Section 42 Dealing with noise at night (Noise Act 1996)

Section 43 Penalty notices for graffiti and fly posting

Section 48 Graffiti removal notices

Section 53 Display of advertisements in contravention of regulations

Section 54 Sale of aerosol paint to children

Part 8 High Hedges

Section 65 High hedges

London Local Authorities and transport for London Act 2003

Part 2 Road traffic and Highways

Section 8 Fixed penalty notices for Highways Act 1980 Offences

Section 17 Removal of things deposited on the highway

APPENDIX B

Legislation enforced by Environmental Protection and Regulation

The legislation in Appendix B comprises all the statutes set out in the following table, as amended from time to time, plus all secondary legislation made under or in connection with any of those statutes, including any relevant secondary legislation made under the European Communities Act 1972 and any relevant by-laws or orders made by the London Borough of Enfield.

NO.	LEGISLATION
1.	Abandonment of Animals Act 1960
2.	Accommodation Agencies Act 1953
3.	Administration Of Justice Act 1970
4.	Agriculture Act 1970
5.	Agriculture (Misc. Provisions) Act 1968
6.	Animal Boarding Establishments Act 1963
7.	Animal Health Act 1981
8.	Animal Health & Welfare Act 1984
9.	Animals Act 1971
10.	Animal Health Act 2002
11.	Animal Welfare Act 2006
12.	Anti Social Behaviour Act 2003
13.	Architects Act 1997
14.	Auctions (Bidding Agreements) Acts 1927 & 1969
15.	Building Act 1984
16.	Betting Gaming & Lotteries Act 1963
17.	Business Names 1985
18.	Breeding Of Dogs 1973
19.	Breeding Of Dogs 1991
20.	Breeding & Sale Of Dogs (welfare) act 1999
21.	Caravan Sites Act 1968
22.	Caravan Sites & Control Of Development Act 1960
23.	Charities Act 2006

24.	Children & Young Persons (Protection From Tobacco) Act 1991
25.	Children & Young Persons Act 1933
26.	Children & Young Persons Act 1963
27.	Clean Air Act 1993
28.	Clean Neighbourhoods & Environment Act 2005
29.	Computer Misuse Act 1990
30.	Communications Act 2003
31.	Companies Act 1985
32.	Companies Act 2006
33.	Construction Products Regulations 1991
34.	Consumer Credit Act 1974
35.	Consumer Protection Act 1987
36.	Control Of Pollution Act 1974
37.	Control of Pollution (amendment) Act 1989
38.	Copyright Designs & Patents Act 1988
39.	Copyright Etc Trademark (Offences & Enforcement) Act 2002
40.	Courts & Legal Services Act 1990
41.	Crime and Disorder Act 1998
42.	Criminal Attempts Act 1981
43.	Criminal Damage Act 1971
44.	Criminal Justice & Public Order Act 1994
45.	Criminal Justice Act 1988
46.	Criminal Justice and Police Act 2001
47.	Criminal Law Act 1977
48.	Crossbows Act 1987
49.	Dangerous Dogs Act 1991
50.	Dangerous Wild Animals Act 1976
51.	Development Of Tourism Act 1969
52.	Dogs Act 1906
53.	Dog Fouling of Land Act 1996
54.	Edmonton Urban District Council Act 1929
55.	Education Reform Act 1988
56.	Electromagnetic Compatibility Regulations 1992

57.	Employment Of Women, Young Persons & Children Act 1920
58.	Employment Agencies Act 1973
59.	Energy Act 1976
60.	Energy Conservation Act 1981
61.	Environment Act 1995
62.	Environmental Protection Act 1990
63.	Enterprise Act 2002
64.	Estate Agents Act 1979
65.	European Communities Act 1972
66.	Explosive (Age Of Purchase) Act 1976
67.	Explosives Act 1875
68.	Fair Trading Act 1973
69.	Financial Services and Markets Act 2000
70.	Fireworks Act 2003
71.	Fire Safety & Safety of Places of Sport Act 1987
72.	Food & Environment Protection Act 1985
73.	Food Safety Act 1990
74.	Forgery & Counterfeiting Act 1981
75.	Fraud Act 2006
76.	Fraudulent Mediums Act 1951
77.	Gambling Act 2005
78.	Game Act 1831
79.	Game Licenses Act 1860
80.	Gaming Act 1968
81.	Greater London Council (General Powers) Act 1966
82.	Greater London Council (General Powers) Act 1967
83.	Greater London Council (General Powers) Act 1968
84.	Greater London Council (General Powers) Act 1969
85.	Greater London Council (General Powers) Act 1971
86.	Greater London Council (General Powers) Act 1972
87.	Greater London Council (General Powers) Act 1973
88.	Greater London Council (General Powers) Act 1978
89.	Greater London Council (General Powers) Act 1981

90.	Greater London Council (General Powers) Act 1982
91.	Greater London Council (General Powers) Act 1984
92.	Guard Dogs Act 1975
93.	Hallmarking Act 1973
94.	Health Act 2006
95.	Health & Safety at Work etc Act 1974
96.	Highways Act 1980
97.	Housing Act 1985 (as amended)
98.	Housing Act 1996
99.	Housing, Grants, Construction & Regeneration Act 1996
100.	Housing Act 1988
101.	Housing Act 2004
102.	Hypnotism Act 1952
103.	Insurance Brokers Registration Act 1977
104.	Insurance Companies Act 1981
105.	Intoxicating Substances (Supply) Act 1985
106.	Knives Act 1997
107.	Licensing Act 2003
108.	Local Government (Misc. Provisions) Act 1976
109.	Local Government (Misc. Provisions) Act 1982
110.	Local Government Act 1972
111.	Local Government Act 2000
112.	Local Government & Housing Act 1989
113.	Local Government Act 1963
114.	London Local Authorities Act 1990
115.	London Local Authorities Act 1991
116.	London Local Authorities Act 1994
117.	London Local Authorities Act 1996
118.	London Local Authorities Act 2000
119.	London Local Authorities Act 1995 Part III
120.	London Local Authorities & Transport For London Act 2003
121.	London Local Authorities Act 2004
122.	London Local Authorities Act 2007

123.	Lotteries & Amusements Act 1976
124.	Malicious Communications Act 1988
125.	Medicines Act 1968
126.	Mobile Telephones (Re-Programming) Act 2002
127.	Mock Auctions Act 1961
128.	Motorcycle Noise Act 1987
129.	National Lottery Act 1993
130.	Noise Act 1996
131.	Noise & Statutory Nuisance Act 1993
132.	Offensive Weapons Act 1996
133.	Offices Shops & Railways Premises Act 1963
134.	Olympic Symbol Etc (Protection) Act 1995
135.	Opticians Act 1989
136.	Package Travel, Package Holidays & Package Tours Regs 1992
137.	Performing Animals (Regulation) Act 1925
138.	Pet Animals Act 1951 & 1983
139.	Poisons Act 1972
140.	Pollution Prevention & Control Act 1999
141.	Planning (Listed Buildings & Conservation Areas) Act 1990
142.	Prevention Of Damage By Pests Act 1949
143.	Prices Act 1974
144.	Property Misdescriptions Act 1991
145.	Protection Of Animals Act 1911
146.	Protection Of Children (Tobacco) Act 1986
147.	Protection Of Children (Tobacco) Act 1991
148.	Protection From Eviction Act 1977
149.	Protection From Harassment Act 1997
150.	Public Health (Control Of Diseases) act 1984
151.	Public Health Act 1936
152.	Public Health Act 1961
153.	Refuse Disposal (Amenity) Act 1978
154.	Riding Establishments Act 1964
155.	Road Traffic Act 1988

156.	Road Traffic (Foreign Vehicles) Act 1972
157.	Road Traffic Offenders Act 1988
158.	Road Traffic Regulation Act 1984
159.	Safety Of Sports Grounds Act 1975
160.	Scotch Whiskey Act 1988
161.	Scrap Metal Dealers Act 1964
162.	Solicitors Act 1974
163.	Statute law (Repeals) Act 2004
164.	Sunday Trading Act 1994
165.	Tobacco Advertising And Promotion Act 2002
166.	Telecommunications Act 1984
167.	Theatres Act 1968
168.	Timeshare Act 1992
169.	Town & Country Planning Act 1990 S 224 & 225
170.	Trade Descriptions Act 1968
171.	Trade Marks Act 1994
172.	Trading Representations (Disabled Persons) Act 1958 & 1972
173.	Trading Schemes Act 1996
174.	Unsolicited Goods & Services Act 1971
175.	Unsolicited Goods & Services (Amendment) Act 1975
176.	Vehicles (Crime) Act 2001
177.	Violent Crime Reduction Act 2006
178.	Video Recordings Act 1984
179.	Video Recordings Act 1993
180.	Water Act 1989
181.	Water Industry Act 1991
182.	Water Resources Act 1991
183.	Weights & Measures Act 1985
184.	Young Persons Employment Act 1938
185.	Zoo Licensing Act 1981

APPENDIX C

LICENSES AND REGISTRATIONS

1	Animal Boarding (Animal Boarding Establishments Act 1963)
2.	Animal Welfare Act 2006
3.	Amusements with Prizes (Gaming Act 1968)
4.	Auctions and Sales by Competitive Bidding (Greater London Council (General Powers) Act 1984)
5.	Dangerous Wild Animals (Dangerous Wild Animals Act 1976)
6.	Dog Breeders (Breeding and Sale of Dogs (Welfare) Act 1999)
7.	Explosives - Storage
8.	Food Premises Registration (Food Safety Act 1990, Food Premises (Registration) Regulations 1990, as amended).
9.	Hairdressers/Barbers Registration (Greater London Council (General Powers) Act 1967)
10.	Licensing Act 2003
11.	Lotteries (Lotteries and Amusement Act 1976)
12.	Movement of Pigs (Animal Health Act 1981)
13.	Performing Animals (Performing Animals (Regulation) Act 1925)
14.	Pet Shops (Pet Animals Act 1951 and 1983)
15.	Poisons (Poisons Act 1972)
16.	Pool Betting (Betting, Gaming and Lotteries Act 1963)
17.	Riding Schools (Riding Establishments Act 1964 and 1970)
18.	Scrap Metal Dealers (Scrap Metal Dealers Act 1964)
19.	Sex Establishments (Local Government (Miscellaneous Provisions) Act 1982)
20.	Special Treatments (London Local Authorities Act 1991 as amended)
21.	Street Trading (London Local Authorities Act 1990)
22.	Motor vehicle salvage (Vehicles (Crime) Act 2001)