

DATA LABEL: PUBLIC



COUNCIL EXECUTIVE

COVID-19: DELEGATION OF POWERS AND DUTIES

REPORT BY GOVERNANCE MANAGER

A. PURPOSE OF REPORT

To amend the Scheme of Delegations to provide for the designation and authorisation of officers to carry out functions under legislation related to the coronavirus.

B. RECOMMENDATIONS

In relation to functions conferred under any existing or future UK or Scottish primary or secondary legislation to deal with the coronavirus, including investigative and enforcement powers and duties such as entry to land and premises and issuing directions, instructions, orders, guidance and fixed penalty notices:-

1. To authorise the Chief Executive to designate an appropriate Head or Heads of Service to carry out such functions
2. To authorise any Head of Service so designated to confer appropriate investigative and enforcement powers on officers within their service area
3. To restrict that latter power of authorisation to Heads of Service without the ability to delegate it to other officers

C. SUMMARY OF IMPLICATIONS

I Council Values	Being honest, open and accountable; making the best use of our resources
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	Coronavirus Act 2020; Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020; Scheme of Delegations to Officers
III Implications for Scheme of Delegations to Officers	The Scheme will be amended as set out in this report
IV Impact on performance and performance Indicators	N/a
V Relevance to Single Outcome Agreement	N/a
VI Resources - (Financial, Staffing and Property)	No resource implications
VII Consideration at PDSP	None

VIII Other consultations

None

D. TERMS OF REPORT

1 Background

Both UK and Scottish Parliaments have passed and will pass primary and secondary legislation designed to tackle the risks and consequences of COVID-19 and the coronavirus. They include measures which confer new powers and duties on local authorities. Some of those allow or require the taking of enforcement action. That may include powers to investigate, gather and share information, enter land and buildings, issue directions instructions, orders, guidance and fixed penalty notices. Those powers often take immediate effect to reflect the urgency involved.

2 Proposal

To allow the adoption and implementation of the functions conferred by coronavirus legislation, powers are sought to be added to the Scheme of Delegations to allow the Chief Executive to identify and designate the most appropriate Head or Heads of Service for their delivery. Once so designated, those Heads will have authority to deliver them, including conferring the appropriate powers on suitably qualified and experienced officers within their service areas.

3 Controls

Committee approval for delegation of powers would normally be sought as a new statutory regime is introduced and functions are conferred on the council. To ensure the speediest deployment of these emergency functions a wide general power is being sought. Three controls are incorporated to avoid any inappropriate use of powers and ensure an effective and solid legal audit trail of their conferral and use:-

- These arrangements are explicitly restricted to measures introduced to tackle the coronavirus. They will not extend more generally or after the threat is over
- The Chief Executive will act as a central control, allocating powers to appropriate Heads who can only act when that is done
- The ability to confer often significant enforcement powers will be restricted to Heads of Service, without the normal permission to sub-delegate that power

E. CONCLUSION

- 1 Approval of these recommendations will enable the council to react swiftly to new and urgent legislation whilst keeping an appropriate degree of control over their use.

F. BACKGROUND REFERENCES

None

Appendices/Attachments: None

James Millar, Governance Manager, Chief Executive Office, West Lothian Civic Centre, Howden Road South, Livingston, EH54 6FF, 01506 281613
james.millar@westlothian.gov.uk

Date of meeting: 30 March 2020