
Report To:	Environment & Regeneration Committee	Date:	2 May 2019
Report By:	Corporate Director Environment, Regeneration and Resources	Report No:	ENV/019/29/MM
Contact Officer:	Martin McNab	Contact No:	01475 714246
Subject:	Delegated Powers: Authorisation of Officers		

1.0 PURPOSE

- 1.1 To update the delegated powers of officers in the event of the United Kingdom's withdrawal from the European Union.

2.0 SUMMARY

- 2.1 The Head of Environmental & Public Protection has delegated powers under the Scheme of Delegation to authorise officers under a number of Acts and regulations. In the case of the latter this is generally encompassed by a broad delegation to authorise officers in regulations made under a particular Act.
- 2.2 There are a large number of regulations currently enforced by the Council which are made under the European Communities Act 1972. These cover a wide variety of areas including food safety, product safety, environmental matters and animal health amongst others. On the United Kingdom's exit from the European Union the European Communities Act 1972 will be repealed. The majority of EU derived regulations made under the Act will however remain in force being retained by the European Union (Withdrawal) Act 2018. Similarly direct EU legislation operative immediately before exit day is brought into domestic law by the same Act.
- 2.3 In order to avoid circumstances where the authorisation of officers might be challenged the powers delegated to the Head of Environmental & Public Protection will need to be amended to remove the reference to The European Communities Act 1972 and regulations made thereunder. This should be substituted by the European Union (Withdrawal) Act 2018 and regulations retained or brought into domestic legislation by that Act.
- 2.4 Additionally, to ensure that any other officers of the Council are properly empowered by updated delegations in this event, the Head of Legal & Property Services will report on any other changes to the Scheme of Delegation to the Policy & Resources Committee at its meeting on 21 May.

3.0 RECOMMENDATIONS

- 3.1 That the Committee approves with effect from the date of the UK withdrawal from the EU that the delegated powers of the Head of Environmental & Public Protection are amended to:
- 3.2 Remove the reference to the European Communities Act 1972; and
- 3.3 Add the European Union (Withdrawal) Act 2018 and regulations retained or brought into domestic legislation by that Act.

4.0 BACKGROUND

- 4.1 Powers are delegated to the Head of Environmental & Public Protection to authorise officers under a number of Acts and Statutory Instruments. In the case of the former this is generally done by delegated powers to authorise officers to exercise powers under the Act and regulations made thereunder. This avoids the need to constantly amend the Scheme of Delegation to incorporate new regulations.
- 4.2 The largest and most varied group of regulations are those made under the European Communities Act 1972. This covers an extremely wide swathe of regulations, both domestic and direct European regulations enforced by Environmental Health Officers and Trading Standards Officers in the Public Protection section of Environmental & Public Protection.
- 4.3 Section 2 of the European Union (Withdrawal) Act 2018 saves EU-derived domestic legislation so that it continues to have effect after exit day. Similarly Section 3 of the Act incorporates direct EU legislation into UK domestic legislation. In order to ensure that the powers of officers are consistent both before and after any agreed EU exit date the Scheme of Delegation will have to be amended to remove reference to the European Union Act 1972 and to add the European Union (Withdrawal) Act 2018.

5.0 IMPLICATIONS

Finance

5.1 Financial Implications:

None

One off Costs

Cost Centre	Budget Heading	With Effect from	Annual Net Impact £000	Virement From (If Applicable)	Other Comments
N/A					

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report £000	Virement From	Other Comments
N/A					

Legal

- 5.2 The Head of Legal & Property Services has been consulted on this report. The amendments to the powers delegated to the Head of Environmental & Public Protection will come into force on the date the UK leaves the European Union.

Human Resources

- 5.3 None

Equalities

- 5.4 Has an Equality Impact Assessment been carried out?

X

YES (see attached appendix)

NO - This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required.

Repopulation

5.5 None.

6.0 CONSULTATIONS

6.1 The Head of Legal & Property Services has been consulted on this report.

7.0 BACKGROUND PAPERS

7.1 Scheme of Delegation for Officers