

**TELFORD & WREKIN COUNCIL**

**CABINET – 8 DECEMBER 2009**

**DELEGATED POWERS FOR PUBLIC PROTECTION STAFF**

**REPORT OF THE HEAD OF PREVENTION AND PROTECTION**

**1.0 PURPOSE**

To seek approval to delegate powers as described at Appendix 1 to staff within the public protection service area. This is required to enable the post holders to carry out their duties on behalf of the Council.

**2.0 RECOMMENDATIONS**

- 2.1 That the scheme of additional delegation at Appendix 1 be approved.**

**3.0 SUMMARY**

- 3.1 Public Protection enforcement staff require delegated authority to act on behalf of the Council.
- 3.2 The power to carry out certain duties is delegated to the post and the individual officers are authorised to carry out the duties.
- 3.3 The powers enable staff to enter premises and to carry out enforcement action.

**4.0 PREVIOUS MINUTES**

None

**5.0 INFORMATION**

- 5.1 All enforcement officers in Public Protection have powers delegated to them either by Council or Cabinet according to which body is responsible for the function. The delegated powers are noted in the constitution in the Local Government Act 2000, Local Government Act 1972, section 100 g (2) list - Responsibility for Functions List of Powers Exercisable by Officers of the Borough of Telford and Wrekin under Council Functions or Cabinet Functions.
- 5.2 Powers under the relevant Acts are delegated to the post or posts.

- 5.3 Individual officers are authorised, by the Council, to carry out the delegated powers. The process allows the officers to deliver the councils statutory duties at the most appropriate level.
- 5.4 The delegations deal with such matters as:
- Power to seek information,
  - power of entry,
  - power to take samples,
  - power to serve legal notices including fixed penalty notices
  - power to authorise works carried out in default of notices and to
  - approve permits and authorisations.
- 5.5 Powers delegated to existing and any new posts require Members' approval. In addition there is a need to accommodate the requirements of new legislation.
- 5.6 This report seeks Members' approval in respect of Cabinet functions for the updating of powers to posts as outlined in the attached appendix.

## **6.0 BACKGROUND**

- 6.1 Without the delegated powers and the authorisation to use them public protection staff cannot carry out their day to day activities.
- 6.2 It is important that staff are empowered at the appropriate level and the decision as to competency rests with the Public Protection Business Manager.
- 6.3 When cases are taken to court it is becoming increasingly common for defence teams to question the officers delegated powers and their authorisation. To accommodate this, officers within Public Protection and Legal Services now, as part of the review of evidence, check that the appropriate delegations and authorisations are in place.
- 6.4 It is anticipated that further proposed changes to the list will follow a similar format as and when required.

## **7.0 EQUAL OPPORTUNITIES**

Not Applicable

## **8.0 ENVIRONMENTAL IMPACT**

No such implications

## **9.0 LEGAL COMMENT**

To enable officers to be authorised in writing to exercise certain statutory powers and carry out certain statutory functions there must be a relevant delegated authority. This report seeks delegated authority in respect of all functions under the specified legislation set out in the appendix to this report.

The exercising of the listed functions are not matters reserved to the Council and therefore are Cabinet functions.

## **10.0 LINKS WITH CORPORATE PRIORITIES**

None.

## **11.0 FINANCIAL IMPLICATIONS**

No direct financial implications arise as a result of the additional delegations.

## **12.0 WARD IMPLICATIONS**

District Wide Implications.

## **13.0 BACKGROUND PAPERS**

Local Government Act 2000, Local Government Act 1972, Section 100g(2) Responsibility for functions list of powers exercisable by officers of the Borough of Telford and Wrekin Cabinet Functions

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## Appendix 1

### Proposed additions to the Local Government Act 2000, Local Government Act 1972 section 100G(2) list

<b>Function and Statutory Power</b>	<b>Delegation of Functions</b>
Power to serve warning notices, fixed penalty notices and related functions relating to night time noise from domestic and licensed premises (except authority to prosecute) – Noise Act 1996	Public Protection Business Manager Environmental Health Team Leader Environmental Health Officer Enforcement Officer (with or without prefix) Senior Project Officer
Authority to prosecute – Noise Act 1996	Head of Operations Public Protection Business Manager