

**REPORT TO: THE MORAY COUNCIL ON 9 SEPTEMBER 2009**

**SUBJECT: SCHEME OF DELEGATION TO OFFICERS**

**BY: DIRECTOR OF ENVIRONMENTAL SERVICES**

**1. REASON FOR REPORT**

- 1.1 To seek the approval of the Council for authority to be delegated to Officers to undertake statutory powers relating to legislation involving Building Standards, Trading Standards and Environmental Health duties, in line with the Authority's Scheme of Delegation.
- 1.2 This report is submitted to Council in terms of Section (II) (5) of the Council's Administrative Scheme relating to the enactment of Orders and Regulations.

**2. RECOMMENDATION**

- 2.1 **It is recommended that the Council agrees to amend the current Scheme of Delegation with regard to Building Standards, Trading Standards and Environmental Health to grant delegated powers to the Director of Environmental Services and Head of Development Services to execute statutory duties of The Moray Council in terms of the Housing (Scotland) Act 2006, the Consumer Credit Act 2006 and the Public Health (Scotland) Act 2008, Building Regulations and for any future Legislation, Enactments, Orders, Regulations, Statutory Instruments or other subordinate legislation made relating to Trading Standards, Environmental Health and Building Standards.**

**3. BACKGROUND**

- 3.1 The Moray Council originally agreed its current Scheme of Delegation, including those relating to Building Standards, Trading Standards and Environmental Health on the 15<sup>th</sup> September 2004. That Scheme of Delegation has since been updated on occasions to reflect the requirements and duties imposed on the Authority by new legislation.
- 3.2 The Scottish Government and UK Government continue to produce new legislation which requires enforcement by Officers of the Authority. The Council therefore needs to continue to update its Scheme of Delegation to ensure that the Director of Environmental Service and other specific posts are given the appropriate Delegated Authority for the implementation of that legislation.
- 3.3 There are currently three new pieces of legislation which require such Authority to be delegated to appropriate Officers as follows:-

Trading Standards

Housing (Scotland) Act 2006,  
(associated Prescribed Documents and regulations).

This Act requires that houses put on the market after the 1<sup>st</sup> December 2008 must be accompanied by documents that make up a Home Report. Two prescribed documents must be available and these are a single survey report (including Energy Report) and a property questionnaire. Failure to do these things could result in the issuing of a Penalty Charge Notice, currently set at £500.

#### Consumer Credit Act 2006

This Act establishes a fairer, clearer and more competitive market for consumer credit.

#### Environmental Health

##### Housing (Scotland) Act 2006

This Act requires the local authority to authorise officers to deal with various issues including Housing Standards, Repairing Standard, Works Notices, Maintenance Orders and Licensing of Houses in Multiple Occupation.

##### Public Health (Scotland) Act 2008

This Act restates and amends the law on public health, makes provision about mortuaries and the disposal of bodies, makes provision for the control of sunbeds, amends the law relating to statutory nuisances and requires local authorities to designate competent persons to exercise the functions relating to the protection of public health. Competent Persons are proposed to be qualified environmental health officers with a minimum of 2 years experience.

- 3.4 Section 3.3 describes recent and current new legislation, which will be implemented and enforced by the Council's officers. In the future there may be further new legislation and regulations, some of which may be based on legislation not listed in this Report. Building Standards, Trading Standards and Environmental Health legislation is generally technical and its implementation and enforcement does not involve decisions by Committee. The Council could agree to delegate authority to the Director of Environmental Services, and Head of Development Services, to execute all future statutory duties relating to Building Standards, Trading Standards and Environmental Health, without referral to Committee for individual pieces of legislation. This would remove the need for preparation of reports and use of staff and committee time for matters which are technical regulatory activities rather than wider policy.

#### **4. SUMMARY OF IMPLICATIONS**

##### **(a) Single Outcome Agreement/Service Improvement Plan**

The above detailed legislation and work to be carried out under each will contribute to the Authority's Single Outcome Agreement outcomes in relation

to the continuing work on Health & Well-being, Improving the Environment and Tackling Inequalities in Moray.

**(b) Policy and Legal**

The implementation of the legislation listed above is a statutory duty on the Council. The proposal seeks to ensure that the Council grants appropriate delegated powers to the Director of Environmental services to implement new primary legislation and any subsequent subordinate legislation.

**(c) Resources (Financial, Risks, Staffing and Property)**

There are no additional financial implications, associated risks, additional staffing requirements or implications for property arising from this proposal.

**(d) Consultations**

The Chief Legal Officer has been consulted and his comments will be reported at Council.

**5. CONCLUSION**

- 5.1 The proposal will grant delegated authority to the Director and Head of Development Services to implement the appropriate legislation for Building Standards, Trading Standards and Environmental Health on behalf of the Authority. The Committee is asked to approve the recommendation.

Author of Report: Stewart Halkett, Head of Development Services  
Background Papers: None  
Ref: SH/DAO