

 Executive –16th November 2011		Agenda Item No. 5
Title	Delegated Powers - Environmental Services	
For further information about this report please contact	Richard Hall Head of Environmental Services 01926-456700 richard.hall@warwickdc.gov.uk	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	n/a	
Background Papers	None	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality & Sustainability Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Deputy Chief Executive	18.10.11	Bill Hunt
Head of Service		n/a
CMT	18.10.11	
Section 151 Officer	18.10.11	Mike Snow
Monitoring Officer	18.10.11	Andy Jones
Finance	18.10.11	Mike Snow
Portfolio Holder(s)	18.10.11	Cllr. Coker
Consultation & Community Engagement		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. SUMMARY

- 1.1 The report recommends amendments to clauses ES (7) and ES (8) of the Council's scheme of delegations, part 3, section 4 and to take account of new legislation i.e. The Sunbeds Regulation Act 2010 the commencement date for which was April this year.

2. RECOMMENDATION

- 2.1 That the proposed changes to the scheme of delegation, as set out in the Appendix, are agreed.

3. REASONS FOR THE RECOMMENDATION

- 3.1 To ensure that officers are enabled to carry out statutory enforcement duties without legal challenge.

4. POLICY FRAMEWORK

- 4.1 N/A

5. BUDGETARY FRAMEWORK

- 5.1 There are no budgetary implications

6. ALTERNATIVE OPTIONS CONSIDERED

- 6.1 None.

7. BACKGROUND

- 7.1 From time to time the powers delegated to officers are reviewed to update wording to ensure that the Council is not open to legal challenge when officers carry out statutory duties. Clauses ES (7) and ES (8) within Part 3, section 4 of the scheme of delegation have been amended as below to take account of this.
- 7.2 The Sunbeds Regulation Act 2010 came into force earlier this year and officers need to be authorised to enforce the powers. The main purpose of the legislation is to prevent the use of sunbeds by persons under 18 years of age. The Act gives powers to local authorities to enforce the legislation. The powers will extend the duties which officers within Environmental Services already have in relation to regulation of premises for health & safety purposes.

The wording of the delegation for this new Act is as set out below in ES 15

ES(7)

Authority to the extent that those functions are discharged otherwise than in the Authority's capacity as an employer to -

Appoint and to terminate such appointments

Under -

(a) The Health and Safety at Work etc Act 1974; and
(b) any Orders, or Regulations or other instruments (whether dated before or after the date of execution of this instrument of appointment);

(i) made thereunder or

(ii) having effect by virtue of the European Communities Act 1972 and relating to health & safety; and

(c) any modification or re-enactment of the foregoing.

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(i) Environmental Health Officers as Inspectors under Section 19(1) of the Health & Safety at Work Etc. Act 1974 (the 1974 Act) and empowered to exercise all the powers set out in Sections 20, 21, 22, 25 and 39 including the institution of legal proceedings; and

(ii) Other suitably qualified and competent persons as Inspectors under Section 19(1) of the 1974 Act and empowered to exercise all or some of the powers as set out in Sections 20 and as may be specified in their authorization.

and an inspector shall in right of his appointment -

(a) be entitled to exercise only such of those powers as are so specified; and

(b) be entitled to exercise the powers so specified only within the field of responsibility of the Authority.

- relevant licences, registrations and approvals

- sign and serve notices including fixed penalty notices

- Authorise and/or execute works in default

- Procure samples, seize equipment, records, goods and articles, and Obtain information

- Obtain and execute power of entry

- Engage specialist advisers/contractors

- Determine whether and in what manner to enforce any failure to comply with matters under legislation enforced under this scheme of delegation and to give effect to that determination, including the administration of cautions.

Appoint and to terminate such appointments –

Under –

- (a) The Food Safety Act 1990; and
- (b) any Orders, or Regulations or other instruments (whether dated before or after the date of execution of this instrument of appointment);
- (i) made thereunder or
- (ii) having effect by virtue of the European Communities Act 1972 and relating to food safety; and
- (c) any modification or re-enactment of the foregoing.

- (i) Environmental Health Officers to-
 - enter premises whether within or outside the Council's area for the purpose of Sections 9, 10, 12, 29, 32 and 49 Food Safety Act 1990
 - Inspection and Seizure of Food
 - Signature of Notices
 - Procurement of Samples, and
 - Powers of Entry
- (ii) Other persons having suitable qualifications as Inspectors to - enter premises whether within or outside the Council's area for the purpose of Sections 10, 29, 32 and 49 Food Safety Act 1990.
 - Signature of Notices
 - Procurement of Samples, and
 - Powers of Entry

and an inspector shall in right of his appointment –

- (a) be entitled to exercise only such of those powers as are so specified; and
- (b) be entitled to exercise the powers so specified only within the field of responsibility of the Authority.
 - relevant licences, registrations and approvals
 - Procure samples
 - sign and serve notices including fixed penalty notices
 - Authorise and/or execute works in default
 - Procure samples, seize equipment, goods and articles, and
 - obtain information
 - Obtain and execute power of entry
 - Engage specialist advisers/contractors
 - Determine whether and in what manner to enforce any failure to comply with matters under legislation enforced under this scheme of delegation and to give effect to that determination, including the administration of cautions.

E (15)

Appoint officers, and terminate such appointments, under section 7 of the Sunbeds (Regulation) Act 2010, to enforce the provisions of section 2 of that Act and the Schedule to the Act.