



Power

June 2011

Before a public officer makes a decision, they must ensure they have the legal power and authority to make that decision.

Sources of power

Sources of decision making power are:

- Statutory power derived from Acts of Parliament or other legal instruments such as regulations and statutory rules; and
- Executive power which enables public authorities to carry out administrative actions needed to undertake their functions and to manage their organisation, including their staff and resources.

Delegation of power

Some powers may be delegated by the responsible officer, who is usually the Chief Executive Officer. This involves:

- Providing delegated officers with the authority to make decisions in specified circumstances;
- Understanding that when the delegation is in place, both the responsible officer and the delegate have the power and authority to make decisions; and
- Understanding that the responsible officer is ultimately accountable for the decision made.

Responsible use of power

Decision makers must use their power responsibly by:

- Using power for the purposes for which it was intended;
- Being aware of the extent of, and any limitations to, their power to make decisions and operating within these limits;
- Being independent and free from bias, and declaring and managing conflicts of interest; and
- Acting fairly, reasonably and in good faith.

Exercising judgement

Legislation often requires decision makers to act in a certain way in defined circumstances. Decision makers may also be given a discretionary power to deal with an issue and to exercise judgement in making decisions. This involves:

- Making an informed and independent judgement about the matter to be decided upon;
- Determining and weighing up relevant considerations and ignoring irrelevant ones; and
- Seeking advice from people with relevant expertise, considering appropriate policies and guidelines, and deciding each case on its merits.

Power - Checklist

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This checklist may be useful to assist public authorities and decision makers in using their decision making powers responsibly.

	YES	NO	IN DEVELOPMENT
Considerations for public authorities			
• Is there a clear understanding of the scope and nature of decisions that fall within the organisation's responsibility?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Is there a clear understanding of the statutory and executive power available and any limitations that need to be considered and is clear guidance about this provided to decision makers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Is there a system of delegation in place which is recorded, authorised by the CEO and is subject to regular review?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Are delegation arrangements clearly communicated to all staff and is delegation documentation easily accessible to staff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Do relevant policies, processes and guidelines include details about power and authority?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Are there controls in place that ensure decisions are only made by those with the appropriate power and authority to do so?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Considerations for decision makers			
• Do you have the statutory or executive power, or delegated authority, to make this decision and know where to find your organisation's delegations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Do you know what decisions you have the power and authority to make?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Are there limitations on your power and do you know the circumstances in which these limitations apply?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Do you know if you should be making this decision, taking into account any real or perceived conflicts of interest?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Do you have the discretion to exercise judgement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Do you know what factors to take into account when exercising judgement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Do you know who you can speak to if you are unclear about the nature or scope of your power?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>