

# Scheme of Delegations

## 1. INTRODUCTION

~~1.1 Under section 101 of the Local Government Act 1972 the Council may delegate its functions to a committee of the Council or to a member of staff, other than those matters reserved to the full Council meeting.~~

Commented [JM1]: Modernisation of drafting.

~~1.2 This document sets out the functions which have been delegated to members of staff.~~

~~1.3 The references to members of staff are to the posts as currently titled but these will equally apply to the holder of an equivalent post in the future.~~

~~1.4 This document deals only with the standard delegations made by the Council and Committees and does not cover temporary delegations for a particular purpose. This document lists the powers, duties and functions (both executive and non-executive) which are delegated to Officers under Section 101 Local Government Act 1972 and/or Section 14 Local Government Act 2000.~~

~~1.2 The specified powers, duties and functions have been expressly delegated to Officers subject to the limitations set out below.~~

~~1.3 The tasks which Officers carry out within their ostensible authority are not listed. Such tasks shall, where appropriate, be undertaken in consultation with the Ostensible Authority Standing Panel. The Panel's terms of reference are appended at the end of this Scheme of Delegations.~~

Commented [JM2]: Ostensible authority to be removed and clarified in delegations.

~~1.4 Delegations granted (before or after the adoption of this Constitution) in respect of specific projects or matters ("one-off" delegations) are not necessarily listed. Such delegations remain in force.~~

## 2. GENERAL CONDITIONS AND LIMITATIONS

~~2.1 The functions, powers and duties in this scheme are delegated to staff as set out. These include the power to do anything which is calculated to facilitate, or is conducive to, the discharge of these functions.~~

~~2.2 All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.~~

~~2.3 All staff exercising these delegations are to act in accordance with the Council's Constitution, Contract Standing Orders, Financial Regulations and any other protocols or other arrangements approved in pursuance to them.~~

~~2.4 The following are not delegated to any member of staff:~~

~~a. Any matter reserved to Council, or any Committee or a member body having decision making powers.;~~

~~b. Any function which by law cannot be delegated to a member of staff; and~~

~~c. The adoption of new policy or significant variation to existing policies and any matter which is contrary to the policy framework and budget of the Council.~~

- 2.5 The Council, relevant committee or other member body with decision making powers may at any time resume responsibility for the function and may therefore exercise the function despite the delegation.
- 2.6 A member of staff may decide not to exercise any function in relation to a particular matter and invite the Council, or relevant Committee or sub Committee having decision making powers, as appropriate, to do so instead. It is open to a member of staff to consult with appropriate councillors on the exercise of delegated powers or in deciding whether or not to exercise any delegated powers where the matter is likely to be controversial or contentious.
- 2.7 A member of staff with line management responsibility for the member of staff named in the delegation may exercise the power instead of the member of staff so designated and may direct or negate any course of action proposed.
- 2.8 A decision delegated to a member of staff by Council or Committee can be taken by a staff member with line management responsibility for that staff member in his/her absence.
- 2.9 A member of staff to whom a power, duty or function is delegated may nominate or authorise another member of staff to exercise that power, duty or function, provided provided that officer reports to or is responsible to the delegator. Any such delegation must be recorded in writing and a copy provided to the Monitoring Officer.
- 2.10 With respect to any reference to a delegation being exercised following consultation with any councillor, the decision is vested with the member of staff so delegated who shall be responsible and accountable for the decision. The member of staff so delegated is required to bring independent judgement to bear on the decision and the decision shall be his/hers alone and not the members being consulted. If those councillors disagree with the member of staff, the matter should be referred to the Leader/ Executive for agreement to exercise such delegated power if lawful and so allowed under this Constitution.
- 2.11 In exercising any delegated powers, officers must ensure that their decisions are consistent with Council policy, within approved spending limits and in the best interests of residents and the Council as a whole. Relevant councillors should also be informed/consulted as appropriate depending on the nature and sensitivity of the decision.
- 2.12 Each officer is responsible for ensuring that decisions which they take are adequately recorded, and that the record of that decision is available to other Officers, to councillors and to the public as required by statute and this Constitution, particularly if the decision relates to a change in policy or practice, or a financial commitment. Every officer is responsible for ensuring that any decision which he/she takes is implemented in accordance with that decision.
- 2.12 Every officer is accountable for each decision which he/she takes and may be called to provide an explanation of his/her reasons for the decision and account for its implementation to other officer, councillors and statutory regulators.
- 2.13 The Chief Executive may remove from an Officer at any time a power to take delegated decisions and upon doing so in writing shall within 24 hours notify the Monitoring Officer. If appropriate, the Chief Executive shall also notify the Council of this removal of powers.

2.14 The Director of Legal and Democratic Services shall have the power to amend delegations to reflect re-organisations, changes in job titles and vacancies, where the changes result in redistributing existing delegations and not the creation of new ones.

2.15 The Director of Legal and Democratic Services shall have the power to amend delegations to reflect changes in legislation, or references to legislation where such changes do not alter the nature of the existing delegation.

### 3. INTERPRETATION

3.1 All enquiries about this scheme of delegations should be made to the Director of Legal and Democratic Services and all matters of interpretation will also be determined by the Director of Legal and Democratic Services

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3.2 Any reference to a statute or statutory instrument shall be deemed to include and be construed as if it contained a reference to any subsequent statute or statutory instrument for the time being replacing, amending or extending the same or containing related provisions.

3.3 The expressions 'officer', 'staff' or 'employee' includes any person employed by the Council irrespective of the particular scheme under which they are employed.

The expression Chief Officer shall mean any member of the Corporate Leadership Team.

### 4. General Delegations to Chief Officers

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Subject to all specific delegations contained in this scheme, Chief Officers may take action on behalf of the Council where the proposed action conforms to any policy, strategy or development plan approved by the Council or one of its committees and there is a budget provision.

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To delegate further, in writing, all or any of their delegated functions to other members of staff to exercise in their own name.

To advise on policy development and formulation. Emergencies

In order to enable an urgent decision to be made, the Chief Executive has delegated power to take any decision which is so urgent that it cannot wait until the next scheduled meeting of the Council or relevant Committee and where the decision is not in contravention of established policies.

In following this procedure, the Chief Executive is required to consult with the relevant Portfolio Holder.

The use of such urgent action must be reported to the next relevant Committee meeting.

The Chief Executive and all Chief Officers have power to take all necessary actions including incurring expenditure with regards to any emergency involving serious danger to life, property and public welfare.

Any action taken under this provision shall be reported as soon as practicable to the Council or relevant Committee as appropriate. If necessary and where legally possible

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Contract Standing Orders and Financial Regulations shall be suspended during such emergencies. All expenditure incurred should be reported to the Chief Finance Officer who will report such expenditure to the Council or relevant Committee where necessary under Financial Regulations. **OPERATING PRINCIPLES**

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- ~~2.1 The Director of Legal and Democratic Services shall maintain the list of delegations set out in this document.~~
- ~~2.2 An Officer to whom a power, duty or function has been delegated may authorise another Officer to exercise the delegation on his/her behalf provided:~~
- ~~(i) he/she considers that other Officer to be a suitable and qualified person to exercise the delegation;~~
  - ~~(ii) that other Officer reports to, or is responsible to, the Officer to whom the power, duty or function has been delegated, and~~
  - ~~(iii) written notice of the authorisation is given to the Director of Legal and Democratic Services (who shall maintain a written record of all such authorisations).~~
- ~~2.3 The Chief Executive may, in consultation with the other members of the Corporate Leadership Group ("CLT"), nominate Officers to exercise the powers, duties and functions listed. The Chief Executive may also nominate an Officer to act in another's absence. The Chief Executive shall give written notice of any nomination to the Director of Legal and Democratic Services (who shall maintain a written record of all such nominations).~~
- ~~2.4 Any power, duty or function delegated to an Officer below CLT level may, in the absence of that Officer, be exercised by the CLT member to whom that Officer reports, or is responsible, to.~~
- ~~2.5 The exercise of functions delegated to Officers under this Scheme must comply, as appropriate, with the following requirements:-~~
- ~~○ any statutory requirements or restrictions;~~
  - ~~○ the Council's Constitution;~~
  - ~~○ the Council's policy framework and any other approved plans and strategies;~~
  - ~~○ the Council's approved budget;~~
  - ~~○ the Officer Employment Procedure Rules;~~
  - ~~○ Contract Standing Orders and Financial Regulations, and~~
  - ~~○ all Codes and Protocols~~
- ~~2.6 This Scheme does not delegate any power, duty or function to an Officer which:-~~
- ~~○ is reserved by law, or this Constitution, to full Council, the Executive or any Committee of the Council;~~
  - ~~○ may not by law be delegated to an Officer; or~~
  - ~~○ is an Executive function which the Leader has reserved to him/herself.~~
- ~~2.7 The exercise of powers, duties or functions delegated to Officers under this Scheme shall be subject to:-~~

~~○ the right of the Overview and Scrutiny Committee to review and scrutinise Officer decisions (Article 6.03(b) of the Constitution and Rule 14 of the Overview and Scrutiny Procedure Rules), and~~

~~○ consultation by the Officer with the appropriate Portfolio Holder or Committee Chairman where the decision is known to have a significant policy, service or operational implication, or is known to be politically sensitive.~~

~~2.8 Any reference to a statutory provision shall be construed as including a reference to any statutory provision re-enacting or amending the same.~~

~~2.9 No Officer shall exercise a delegation without first identifying and documenting the source of the delegated authority, whether contained in this Scheme of Delegations, or otherwise granted to the Officer. Where authority to act is in question, Officers must take the advice of the Director of Legal and Democratic Services before exercising the delegation.~~

~~2.10 The Director of Legal and Democratic Services is authorised to amend this Scheme of Delegations to:~~

~~○ reflect organisational changes. Such amendments shall only re-allocate existing delegations, and~~

~~○ keep it up-to-date in the light of re-enactments or amendments to the statutory provisions referred to.~~

### ~~53.~~ **RECORDING OF DECISIONS**

~~53.1 All delegated decisions shall be a matter of public record unless containing exempt information under Schedule 12A to the Local Government Act 1972 and, in respect of executive decisions taken by officers under delegated powers, shall be available for inspection on the Council's website and at the Council's offices (including by access to the Council's website at the Council's offices) in accordance with Regulation 14 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.~~

~~An Officer exercising a delegation in respect of an Executive function (i.e. a decision on a matter which would otherwise be made by the Executive/Leader) shall, as soon as reasonably practicable after making the decision, prepare a written record which includes:~~

- ~~○ a record of the decision including the date it was made;~~
- ~~○ a record of the reasons for the decision;~~
- ~~○ details of any alternative options considered and rejected when making the decision;~~
- ~~○ a record of any conflict of interest declared by any Member of the Executive who is consulted by the Officer which relates to the decision, and~~
- ~~○ a note of any dispensation granted in respect of any declared conflict of interest.~~

~~53.2 An Officer exercising a delegation in respect of a non-Executive function (i.e. a decision on a matter which would otherwise be made by full Council or a Committee) must produce a written record of any decision which was made:~~

- ~~(i) under a specific express authorisation, or~~
- ~~(ii) under a general authorisation and the effect of the decision is to:~~

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- (a) grant a permission or licence;
- (b) affect the rights of an individual, or
- (c) award a contract or incur expenditure which, in either case, materially affects the Council's financial position.

The written record must be produced as soon as reasonably practicable after the decision was made, and shall include the following information:

- o the date the decision was taken;
- o a record of the decision taken along with the reasons for the decision;
- o details of alternative options, if any, considered and rejected, and
- o where the decision was taken under a specific express authorisation, the names of any Member who has declared a conflict of interest in relation to the decision.

53.3 The written record must be forwarded to Democratic Services who will arrange for it to be available for public inspection at the Civic Offices and on the Council's website.

53.4 The Officer shall also forward to Democratic Services, for publication in the same manner, a copy of any report considered by the Officer which is relevant to the decision made.

53.5 These requirements do not extend to confidential or exempt information.

