

CONSTITUTION 2021 – Version 2 (May 2022)
PART 4 – OFFICER SCHEME OF DELEGATION
SECTION 1 – GENERAL PRINCIPLES

PART 4 - OFFICER SCHEME OF DELEGATION
(GENERAL PRINCIPLES)

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GENERAL PRINCIPLES

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1.0 GENERAL PRINCIPLES

- 1.1 All functions that are not specifically reserved by law or under this constitution to the full council, a regulatory committee, sub-committee or service committee or officers, are delegated to the Chief Executive in accordance with annexe 1.
- 1.2 This scheme is made by the council under section 101(1) (a) of the Local Government Act 1972 ¹.
- 1.3 The scheme is made in accordance with section 151 of the Local Government Act 1972, and all other provisions relating to functions held by the council; and shall be construed in accordance with any legislation amending, or substituted for, any of those provisions, or any legislation having a similar purpose or made for similar purposes.
- 1.4 This scheme does not delegate to officers:
- any matter reserved to the full council,
 - any matter which by law may not be delegated to an officer,
 - any matter expressly reserved to a committee or sub-committee by this constitution,
 - any power to change concession policies,
 - any power to make a decision on permanent savings in a budget,
 - any power to make an order for the compulsory acquisition of land,
 - any power to acquire land in advance of requirements,
 - any power to confirm any order, or to issue or grant any permission, consent, licence or other determination, which is the subject of a statutory right of objection that has been duly exercised.
- 1.5 In respect of any matter falling within the parameters of this scheme, the Chief Executive may in writing make such arrangements with Directors for the discharge of functions within their areas of responsibility as the Chief Executive considers appropriate.
- 1.6 This scheme delegates powers and duties within broad functional descriptions. It includes powers and duties under all legislation, byelaws present and future, and common law provisions, within those descriptions, and all powers and duties incidental to that legislation including the institution and conduct of proceedings. The powers and duties shall be exercised in accordance with the

¹ This footnote is not part of the constitution. Section 101 (1) of the Local Government Act 1972 allows a local authority to arrange for the discharge of any of their functions by a committee, subcommittee, an officer or another local authority. The word **arrange** includes arranging by contract or delegation or some other arrangement. The key point is that it does not have to be a “delegation” although it usually is.

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constitution and the policies and objectives of the council relevant to the matter upon which action is to be taken.

- 1.7 This scheme includes an obligation on officers to keep members of the council properly informed of activity arising within the scope of these delegations.
- 1.8 These general principles and any amendment of or addition to them made by the council shall apply to the delegation of functions in the constitution.

2.0 GENERAL LIMITATIONS

- 2.1 An officer, in exercising delegated powers, shall consult other appropriate officers and shall have regard to any advice received.
- 2.2 Any exercise of delegated powers shall be subject to any policy framework approved by the council, including the authority's employment policies and disciplinary procedures, equality policies, and any service delivery policies; and shall be guided by relevant codes of conduct or protocols produced or adopted by the council (including any code or protocol which has been included within the council's constitution) and the corporate plan.
- 2.3 Any exercise of delegated powers shall be subject to:
 - any statutory restrictions
 - the council's procedure rules relating to purchasing, procurement, contracts and disposals
 - the council's financial procedure rules
 - article 13 of the constitution (Finance, Contracts and Legal Matters)
 - the provisions generally of this part of the constitution
- 2.4 In exercising delegated powers, officers shall not go beyond the provision made in the revenue or capital budgets for their service, except to the extent permitted by the council's financial procedure rules or the procedure rules relating to purchasing, procurement, contracts and disposals set out in part 6 of this constitution.
- 2.5 Any matters relating to the making and/or alteration of council policy shall be referred to the full council or the relevant service committee.
- 2.6 The delegation of authority to deal with any matter shall not override the power of the council to call for a report on any decision or action taken or to require any such matter under consideration to be referred to the council or to the appropriate committee or sub-committee for decision.
- 2.7 The Chief Executive, a Director or Group Head may, after consultation with any officer concerned, refer to the council, the appropriate committee or sub-committee for decision any matter which has been brought to their notice and which in their opinion, because of special difficulty or otherwise, warrants such reference.
- 2.8 It shall always be open to an officer to whom authority is delegated to consult

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the appropriate Chair of a committee on the exercise of a delegated function, or not to exercise a delegated function but to refer the matter back to the full council, the relevant committee or sub-committee for decision.

- 2.9 Where a delegation requires the agreement of, or consultation with a committee Chair, such delegation shall allow for the substitution of the Vice-Chair or in their absence, another member of the committee.
- 2.10 An officer to whom authority is delegated shall have power to undertake all work to give full effect to any decision of the council, its committees and sub-committees.

3.0 DELEGATIONS TO OFFICERS

3.1 **Limitations of delegations** - The powers delegated to officers under this scheme do not include any power to take a decision which is properly a matter for the council, or a committee or sub-committee. Officers are, in the context of this scheme, responsible for the management of their services, the provision of advice to the council and members, and the implementation of council policies and decisions. A decision which an officer takes, under a delegation made by or under this scheme, must:

- implement a policy previously approved or decision previously taken by the council, or a committee or sub-committee; or
- facilitate, or be conducive or incidental to, the implementation of a policy or decision previously approved;
- be recorded in accordance with paragraphs 5.1 and 5.2 below

4.0 FURTHER PROVISIONS

4.1 **Continuation of existing delegations** - A delegation to an officer which existed at the date of the introduction of this scheme shall, to any extent that it remains unaltered by (and is not inconsistent with) any delegation (or variation to a delegation) made by or under this scheme, shall continue to have effect.

4.2 **Deemed delegations** - Where in respect of a given function or activity, no delegation is in effect, and an officer has a management responsibility in relation to the exercise of that function or activity, the exercise of any delegated authority necessary to carry out the function or activity effectively shall be deemed to have been delegated to that post holder.

4.3 In this scheme, “officer” means the holder of any post to which a function or activity, or powers and duties in relation to such a function or activity, may be delegated.

4.4 Where a function or activity has been specifically delegated by or under this scheme to an officer, and where the officer to whom the delegation was made is absent or otherwise unavailable, that function or activity shall not be exercised by another officer without the consent of the Chief Executive.

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- 4.5 An authority delegated to officers includes management of the human and material resources made available for the service area and any function concerned, within the limitations of this scheme, and subject to any specific delegations made by or in accordance with this scheme to another officer.
- 4.6 In each case, a delegated authority excludes any determination of policy, any exception to policy, or of any budget by the officer concerned.

5.0 RECORDS OF DECISIONS MADE BY OFFICERS WITH DELEGATED RESPONSIBILITIES

- 5.1 It is the responsibility of every officer exercising a delegated responsibility to maintain a paper or electronic record of all decisions made and actions decided upon for a period of six years or such other period as required by statute or regulation in a manner that meets the overall responsibility of the council arising from that decision, including the needs of officers from all services who will action the decision as well as the officers who are responsible for the governance of the council.
- 5.2 Where a decision delegated to an officer would otherwise have been taken by the full council, a committee, sub-committee or joint committee either:
- a) under a specific express authorisation; or
 - b) under a general authorisation to officers to take such decisions and, the effect of the decision is to -
 - grant a permission or licence;
 - affect the rights of an individual; or
 - award a contract or incur expenditure which, in either case, materially affects the council's financial position

the decision-making officer must produce and retain for a period of six years a written record of the decision as soon as practicable containing the following information:

- i. the date the decision was taken;
- ii. a record of the decision and the reasons for the decision;
- iii. details of alternative options, if any, considered and rejected; and
- iv. where the decision falls under paragraph 5.2 a) above, the names of any member of the council who has declared a conflict of interest in relation to the decision

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6.0 WRITTEN RECORD OF THE DECISION

- 6.1 For decision made under paragraph 5.2 above, the written record must, as soon as reasonably practicable after the decision is made, be available:
- a) for inspection at council offices during normal working hours; and
 - b) to view online

7.0 PROPER OFFICERS

7.1 The Local Government Act 1972 introduced a requirement that the officer required to perform specified duties should be the "proper officer" appointed by the council for that purpose. The council has designated the under-mentioned officers in the following table as the 'proper officers' for the sections and schedules indicated.

Legislation Title (in alphabetical order)	Purpose	Proper Officer
Local Authorities (Referendums) (Petitions) (England) Regulations 2011	Petitions and Referendums	Chief Executive
Local Government Act 1972: •Schedule12 - para 4(2)(b)	Signing of Council summons to attend a meeting	
•Schedule14 para 25(7)	Certification of resolutions passed by the Council	Chief Executive
•S. 13(3)	Parish Trustee (In a parish not having a separate parish council)	
•S. 83(1)	Declarations of acceptance of office	

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Legislation Title (in alphabetical order)	Purpose	Proper Officer
•S. 84	Resignation of a Member from office	Chief Executive
•S. 88(2)	Convening of Council meeting for filling Chair casual vacancy	
•S. 89(1)(b)	Notice of casual councillor vacancy	
•S. 100A – 100K	Access to Information	
•S. 115(2)	Payment of money due	Group Head of Finance
•S. 146(1)(a)	Securities – statutory declaration	
•S. 146(1)(b)	Securities – certificate	
•S. 151	Financial administration	
•S. 191	Ordnance Survey applications	Director of Growth
•S.s 210(6) and (7)	Charities	Group Head of Finance
•S. 225(1)	Deposit of documents	Monitoring Officer
•S. 229(5)	Certification of photocopies (other than accounts)	Monitoring Officer
•S.s 234(1) and (2)	Authentication of documents	Monitoring Officer
•S.s 236(9)	Distribution of Byelaws	Group Head of Law & Governance
•S. 238	Provide certified copies of Byelaws	
Local Government Finance Act 1988 – S.114	Proper administration of financial affairs	Section 151 Officer
Local Government (Miscellaneous Provisions) Act 1976 – S.41	Evidence of resolutions and minutes of proceedings	Group Head of Law & Governance
Local Government Act 2000 – S.s 49 to 81 (insofar as the same are still in force)	Conduct of Members	Monitoring Officer
Local Government & Housing Act 1989 – •S. 4	Head of the Paid Service	Chief Executive
•S. 5	Monitoring Officer	Group Head of Law & Governance

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Legislation Title (in alphabetical order)	Purpose	Proper Officer
Public Health (Control of Disease) 1984 •S. 1	Duty to execute this Act	The Council has appointed Public Health England to act as Proper Officer when dealing with these powers
•S. 61	Power to enter premises	
Neighbourhood Planning (Referendums) Regulations 2012	Counting Officer	Director of Growth
Representation of the People Act 1983: •S.8	Registration of Parliamentary and Local Government Electors – Electoral Registration Officer	Chief Executive
•S.28	Conduct of Parliamentary Elections – Discharge of Returning Officer’s Functions	Chief Executive
•S.35	Returning Officer	Chief Executive
Electoral Administration Act 2006	Updated local government election rules	Chief Executive
Police Reform and Social Responsibility Act 2011	Police and Crime Commissioner Elections	Chief Executive
Planning (Listed Buildings and Conservation Areas) Act 1990 – S.2	Deposit of lists of buildings of special architectural or historic interest	Director of Growth

7.2 In any enactment passed before or during the 1971/72 session of parliament other than the Local Government Act, 1972 or in any instrument made before 26th October 1972, a reference to a specified officer of the council shall be deemed to be a reference to the relevant director in which the function of the specified officer is now vested, or in appropriate cases to Public Health England.

7.3 Where written evidence of any such appointment as aforesaid is required, the Chief Executive or their nominated deputy shall issue it.

7.4 Officers responsible for the governance of the council are:

- Finance – Group Head of Finance

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- Internal Audit – Group Head of Finance
- Committee Services and Information Management – Group Head of Law & Governance

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ANNEXE 1 – GENERAL DELEGATION TO THE CHIEF EXECUTIVE

CHIEF EXECUTIVE

- 1.1 With the exception of Proper Officer powers and those powers delegated to:
- a) the Group Head of Law & Governance when acting as Monitoring Officer;
or
 - b) the Group Head of Finance when acting as Section 151 Officer;
or
 - c) Chief Executive when acting as Head of Paid Service
- the Chief Executive has the power to take all lawful action consistent with overall council policy to deliver agreed strategy, plans and policy, and to comply with and undertake all statutory obligations, duties, functions and powers and within approved budget.
- 1.2 Further to the above provisions, the Chief Executive may allocate, authorise or delegate responsibility for exercising particular powers to any officer of the council as the Chief Executive thinks fit. All such delegations (as opposed to authorisations) are to be recorded in writing and retained for the duration of the delegation (as opposed to authorisation) which shall not exceed a specified period exceeding six months and shall set out the description of the powers to be exercised by the officer of the council and state the post held by the officer, in accordance with the Local Government Act 2000 (Constitutions) (England) Direction 2000.
- 1.3 For the purposes of the above provisions, the statutory obligations, duties, etc. referred to shall include, but not exhaustively, those contained within the legislation set out in a matrix of statutes held by the delegating officer in respect of their service area, a copy of which shall be provided to the Monitoring Officer together with all amendments.
- 1.4 The Monitoring Officer will maintain a central record of all delegations received from the delegating officers as are established under paragraph 1.2 of this part of the constitution and will make them available for public inspection pursuant to section 100G of the Local Government Act 1972.
- 1.5 For the avoidance of doubt, the Chief Executive is not authorised to grant a councillor permission not to attend meetings of the council for the purposes of section 85 of the Local Government Act 1972.