

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**COUNCIL – 16 SEPTEMBER 2014**

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| Title of report  | <b>PREPARING FOR THE FUTURE OF THE HOUSING SERVICE – DELEGATION ARRANGEMENTS</b>   |
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| Purpose of report  | To seek Council's approval of the proposed amendments to delegated powers in relation to the Housing Authority functions.  |
| Council Priorities   | Value for Money  |
| Implications:<br><br>Financial/Staff<br><br>Link to relevant CAT<br><br>Risk Management<br><br>Equalities Impact Assessment<br><br>Human Rights<br><br>Transformational Government | None.<br><br>None.<br><br>A clear and up to date scheme of delegation will minimise the risk of the Authority failing to comply with statutory requirements and assist in delivering its priorities and objectives.<br><br>Not applicable.<br><br>Not applicable.<br><br>Clear and robust governance arrangements and procedures assist with the effective and efficient delivery of services and proper decision making.  |
| Comments of Head of Paid Service   | The report is satisfactory   |

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| Comments of Section 151 Officer       | The report is satisfactory   |
| Comments of Deputy Monitoring Officer | The report is satisfactory   |
| Consultees                            | Chief Executive<br>Head of Legal and Support Services<br>Group Leaders   |
| Background papers                     | None   |
| Recommendations                       | <ol style="list-style-type: none"> <li>1. <b>THAT COUNCIL NOTES THE DECISION TO APPOINT AN INTERIM DIRECTOR OF HOUSING</b></li> <li>2. <b>THAT COUNCIL AGREES THE PROPOSED CHANGES TO THE SCHEME OF DELEGATION TO BE IMPLEMENTED ON THE APPOINTMENT OF THE INTERIM DIRECTOR OF HOUSING.</b></li> <li>3. <b>THAT COUNCIL AUTHORISES THE HEAD OF LEGAL AND SUPPORT SERVICES TO MAKE THE AGREED AMENDMENTS TO THE SCHEME OF DELEGATION IN THE CONSTITUTION AND THE CONSEQUENTIAL AMENDMENTS ARISING AND RE-ISSUE THE DOCUMENT.</b></li> </ol> |

## 1.0 INTRODUCTION

- 1.1 The Local Government and Housing Act 1989 require a relevant Local Authority to designate one of their officers as the Head of Paid Service.
- 1.2 Under the Council's adopted Constitution the Chief Executive is designated as Head of Paid Service.
- 1.3 The Head of Paid Service is responsible determining amongst other things:
- (a) the manner in which the discharge by the authority of their different functions is co-ordinated;
  - (b) the number and grades of staff required by the authority for the discharge of their functions;
  - (c) the organisation of the authority's staff; and
  - (d) the appointment and proper management of the authority's staff.
- 1.4 Following discussion and agreement with the Leaders of both groups it has been agreed that an Interim Director of Housing should be appointed for a period of 18 months to provide more capacity at a strategic level to further develop the service in the long term.

## **2.0 CURRENT SCHEME OF DELEGATION**

- 2.1 Under the current scheme of delegation the Council's functions as Local Housing Authority currently lie with the Director of Services. An extract of the constitution is attached at Appendix A.

## **3.0 PROPOSED CHANGES TO THE CONSTITUTION**

- 3.1 It is proposed that the current delegation of Housing functions to the Director of Services contained within Section 7 (Scheme of Delegation) – Part 5 are deleted and that a new section is inserted as follows: ' Part 6 - Director of Housing'. Copies of the proposed amendments are attached at Appendix B and Appendix C.
- 3.2 In addition to the service specific delegations granted to the Director of Services the Constitution contains a number of general delegations to the Chief Executive and the Director of Services which mainly deal with administration and procedure. In those delegations the reference is made either to the 'Director' in the singular or the 'Director of Services'. As those general provisions in the Constitution will also apply to the Director of Housing it is recommended that Council grants delegated authority to the Head of Legal and Support Services to make the following consequential amendments to the general delegations where necessary;
- a) References to Director in the singular are amended to Directors in the plural; and
  - b) References to the Director of Services are amended to Director of Services/Director of Housing

## **4.0 ANNUAL REVIEW OF THE CONSTITUTION**

- 4.1 On 16 July 2014 the Head of Legal and Support Services reported to members on the annual review of the constitution and recommended that the review be postponed pending the enactment of new legislation, in particular The Openness of Local Government Bodies Regulations 2014 which were to introduce a number of new requirements, including the reporting (filming) of council meetings.
- 4.2 Those regulations were enacted with immediate effect on 6 August 2014. The accompanying guidance recommends that Council's should adopt a protocol to manage the recording of meetings and officers have put interim arrangements into place to ensure compliance with the regulations.
- 4.3 Officers considered that it would be appropriate for members to have an in-put into the content of the protocol and a report will be presented to members of Policy and Development Group for comment on 1 October before consideration by Council on 11 November.

## 5. DIRECTOR OF SERVICES

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The officer is authorised by the Council to discharge the following functions and determine directly or in consultation with the Chief Executive all matters except those reserved by or referred to Council, the Cabinet or Committees.

### SERVICE FUNCTIONS

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- (i) All activities in relation to the discharge of the Council's function as Local Planning Authority, including planning policy, development control, land reclamation and drainage.
- (ii) All activities in relation to the discharge of the Council's functions as the Local Building Regulation Authority and "Building Control Body" (excluding street naming and numbering and replacement of street nameplates).
- (iii) All functions in relation to waste, recycling and street cleansing and street scene.
- (iv) Economic development and regeneration.
- (v) Engineering design.
- (vi) Enforcement of byelaws and orders of the Council including car parking.
- (vii) Cemeteries, burials and closed church yards.
- (viii) Public conveniences.
- (ix) Town centre management including markets/fairs (including farmers' markets).
- (x) Fleet management.
- (xi) Green space including allotments.
- (xii) Sanitation including cesspools, septic tanks, etc.
- (xiii) Land charges.
- (xiv) All activities in relation to the discharge of the Council's function as Local Housing Authority.
- (xv) Awarding schedule of rates contracts.
- (xvi) Social inclusion.
- (xvii) Community safety and CCTV.
- (xviii) Community health, development and social regeneration.
- (xix) Leisure facilities - management and operation including sports and recreation facilities.
- (xx) Cultural services.
- (xxi) Arts, entertainment, heritage and tourism and tourist information.

- (xxii) Sports and leisure development.
- (xxiii) Gypsies and travellers.
- (xxiv) Community enterprise.
- (xxv) External resources, grants and bids support.

## **SPECIFIC FUNCTIONS**

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### **COUNCIL FUNCTIONS**

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- (i) Subject to those matters reserved for decision by the Planning Committee, to exercise all those functions for which the Council is responsible concerning town and country planning and development control set out in Regulation 2 and Schedule 1 of the Regulations and in particular:
  - to agree non-material variations to conditions of permissions and consents where no objections have been received and no demonstrable harm would be caused to an interest of acknowledged importance;
  - to decide details submitted in compliance with conditions on planning permissions;
  - to negotiate obligations under Section 106 of the Town and Country Planning Act 1990, including any obligations that may be required in connection with any appeal proceedings;
  - to serve building preservation notices or listed building notices in an emergency.
- (ii) Subject to those matters reserved for decision by the Planning Committee, to exercise all those functions for which the Council is responsible concerning the protection and treatment of hedgerows and the preservation of trees set out in Regulation 2 and Schedule 1 of the Regulations and in particular:
  - to give permission to cut down or lop trees protected by a tree preservation order or by virtue of their location in a conservation area;
  - to determine complaints received under the provisions of the High Hedges Regulations 2005 and specify remedial action to resolve the complaint in accordance with the national guidance and initiate enforcement action as necessary.
- (iii) Subject to those matters reserved for decision by the Planning Committee, to exercise all those functions for which the Council is responsible concerning public rights of way set out in Regulation 2 and Schedule 1 of the Regulations.
- (iv) To exercise all those functions for which the Council is responsible concerning health and safety at work (other than in the Authority's capacity as an employer) set out in Regulation 2 and Schedule 1 of the Regulations.
- (v) To issue a closing order on a takeaway food shop.

### **EXECUTIVE FUNCTIONS**

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- (i) To make or revoke a direction under Article 4 of the General Development Order 1995.
- (ii) To recommend to Cabinet the designation or extension of an area as a conservation area.
- (iii) To exercise any function related to contaminated land.
- (iv) To inspect for a statutory nuisance and to investigate any complaint about the existence of a statutory nuisance.
- (v) To serve an abatement notice for a statutory nuisance.
- (vi) To administer the Building Regulations.
- (vii) To operate the housing allocations scheme, allocate properties and make nominations to registered social landlords or other approved providers.
- (viii) To determine whether people are homeless and whether they are in priority need.
- (ix) To allocate temporary accommodation.
- (x) To collect rent, arrears of rent, charges and sundry debts.
- (xi) In addition to the Head of Legal and Support Services, to institute, defend or participate in any legal proceedings in the county court insofar as they relate to:
  - (a) former tenant rent arrears, and
  - (b) rent possession hearingsand in conjunction with this to designate nominated officers to carry out this function on his or her behalf, including the signing of any related document necessary to any legal procedure or proceedings.
- (xii) To represent the Authority and appear as an advocate on the Authority's behalf in any related legal proceedings.
- (xiii) To serve notice of seeking possession, notice to quit and applying for possession orders.
- (xiv) To determine applications by tenants to alter their homes.
- (xv) To reimburse tenants for tenants' improvements.
- (xvi) To transfer tenancies into joint names and vice-versa.
- (xvii) To agree mutual exchange.
- (xviii) To take immediate action to secure the removal of trespassers from housing land and property.
- (xix) To determine the eligibility of applicants to right to buy.
- (xx) To determine the future use of properties, including the redesignation, disposal or demolition of properties and to take such properties out of debit, subject to the approval by Cabinet of such proposals.

## SPECIFIC FUNCTIONS

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### COUNCIL FUNCTIONS

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  - to determine complaints received under the provisions of the High Hedges Regulations 2005 and specify remedial action to resolve the complaint in accordance with the national guidance and initiate enforcement action as necessary.
- (iii) Subject to those matters reserved for decision by the Planning Committee, to exercise all those functions for which the Council is responsible concerning public rights of way set out in Regulation 2 and Schedule 1 of the Regulations.
- (iv) To exercise all those functions for which the Council is responsible concerning health and safety at work (other than in the Authority's capacity as an employer) set out in Regulation 2 and Schedule 1 of the Regulations.
- (v) To issue a closing order on a takeaway food shop.

### EXECUTIVE FUNCTIONS

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- (i) To make or revoke a direction under Article 4 of the General Development Order 1995.
- (ii) To recommend to Cabinet the designation or extension of an area as a conservation area.
- (iii) To exercise any function related to contaminated land.

- (iv) To inspect for a statutory nuisance and to investigate any complaint about the existence of a statutory nuisance.
- (v) To serve an abatement notice for a statutory nuisance.
- (vi) To administer the Building Regulations.
- (vii) ~~To operate the housing allocations scheme, allocate properties and make nominations to registered social landlords or other approved providers.~~
- ~~(viii) To determine whether people are homeless and whether they are in priority need.~~
- ~~(ix) To allocate temporary accommodation.~~
- ~~(x) To collect rent, arrears of rent, charges and sundry debts.~~
- ~~(xi) In addition to the Head of Legal and Support Services, to institute, defend or participate in any legal proceedings in the county court insofar as they relate to:
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- ~~(xiii) To serve notice of seeking possession, notice to quit and applying for possession orders.~~
- ~~(xiv) To determine applications by tenants to alter their homes.~~
- ~~(xv) To reimburse tenants for tenants' improvements.~~
- ~~(xvi) To transfer tenancies into joint names and vice-versa.~~
- ~~(xvii) To agree mutual exchange.~~
- ~~(xviii) To take immediate action to secure the removal of trespassers from housing land and property.~~
- ~~(xix) To determine the eligibility of applicants to right to buy.~~
- ~~(xx) To determine the future use of properties, including the redesignation, disposal or demolition of properties and to take such properties out of debit, subject to the approval by Cabinet of such proposals.~~



## 6. DIRECTOR OF HOUSING

The officer is authorised by the Council to discharge the following functions and determine directly or in consultation with the Chief Executive all matters except those reserved by or referred to Council, the Cabinet or Committees.

- i. To operate the housing allocations scheme, allocate properties and make nominations to registered social landlords or other approved providers.
- ii. To determine whether people are homeless and whether they are in priority need.
- iii. To allocate temporary accommodation.
- iv. To collect rent, arrears of rent, charges and sundry debts.
- v. In addition to the Head of Legal and Support Services, to institute, defend or participate in any legal proceedings in the county court insofar as they relate to:
  - a. former tenant rent arrears, and
  - b. rent possession hearings
  - c. and in conjunction with this to designate nominated officers to carry out this function on his or her behalf, including the signing of any related document necessary to any legal procedure or proceedings.
- vi. To represent the Authority and appear as an advocate on the Authority's behalf in any related legal proceedings.
- vii. To serve notice of seeking possession, notice to quit and applying for possession orders.
- viii. To determine applications by tenants to alter their homes.
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- xiii. To determine the eligibility of applicants to right to buy.
- xiv. To determine the future use of properties, including the redesignation, disposal or demolition of properties and to take such properties out of debit, subject to the approval by Cabinet of such proposals.