

SECTION 7 - SCHEME OF DELEGATION TO STAFF - COUNCIL AND EXECUTIVE FUNCTIONS

1. SCOPE OF THE SCHEME

This scheme sets out the extent to which the powers and duties of the Authority are delegated to officers.

2. EXERCISE OF DELEGATED POWERS

- (i) Functions, tasks and responsibilities listed in this scheme of delegation may be exercised by the nominated officer(s) and includes anything which facilitates, or is conducive or incidental to, the discharge of these functions, tasks, or responsibilities.
- (ii) Where an officer has been given delegated authority by this scheme he or she may authorise any member of his or her staff to act on his or her behalf except the signatories to financial documents (paragraph 10 post) on matters relating to the Council's banking.
- (iii) An officer may always refer a delegated matter to the Cabinet or the Council or to one of its Boards or Committees for consultation or decision rather than take the decision him/herself.
- (iv) When exercising delegated powers officers must always have regard to the financial, legal and human resource implications of the decision. When necessary, advice should be taken.
- (v) Before taking a decision under delegated powers, an officer shall notify the relevant portfolio holder of any action which is likely to be contentious or politically sensitive.
- (vi) The Chief Executive, Director of Housing and Director of Services shall keep portfolio holders informed of the work of their service area.
- (vii) When exercising delegated powers officers shall consult with staff in another service area if the decision is likely to impact on the work of that service area.
- (viii) When exercising delegated powers an officer shall always have regard to the requirements of the Constitution.
- (ix) The Chief Executive may authorise one officer to exercise the delegated powers of another officer in the absence of the latter except the signatories to financial documents (paragraph 10 post) on matters relating to the Council's banking.
- (x) This scheme does not delegate to an officer any matter which:

- (a) has been reserved to the full Council
- (b) has been reserved to any board or committee
- (c) has been reserved to the Cabinet
- (d) may not by law be delegated to an officer.

3. GENERAL FUNCTIONS TO BE DISCHARGED BY THE CHIEF EXECUTIVE AND DIRECTORS

- (i) To take such action as may in his or her opinion be necessary or appropriate in connection with:
 - (a) all operational management matters for these functions and service areas for which he or she has responsibility under this Constitution and the enforcement of all legislation relating to his/her functions and service areas;
 - (b) persons and/or property for which he or she and his or her service has responsibility;
 - (c) the implementation of decisions properly authorised by the Council or a board or committee of the Council, the Cabinet or an individual member of the Cabinet or by an officer acting under delegated powers;
 - (d) the performance of any action for which he or she is specified as responsible in any policy, procedure or other document approved or adopted by the Council or a board or committee of the Council, the Cabinet or an individual member of the Cabinet or by an officer acting under delegated powers.
 - (e) The response to consultation documents following consultation with the relevant portfolio holder(s).
- (ii) To serve a requisition for information about an interest in land using powers relevant to the operation of the service area.
- (iii) To authorise officers to conduct directed surveillance or the use of covert human intelligence sources and the accessing of communications data in accordance with the Regulation of Investigatory Powers Act 2000. (Such authorisation to be presented to the Magistrates Court for approval). The use of juveniles and vulnerable individuals as covert human intelligence sources shall only be authorised by the Chief Executive.
- (iv) To award contracts within budget up to the value of £100,000 unless the contract is in respect of a matter that has been previously approved by Cabinet in which case the Directors may award contracts of £100,000 or

greater subject to it being within the approved budget for that scheme (see paragraph 4, Budget and Policy Framework Procedure Rules for Urgent Decisions outside the Council's Budget and Policy Framework).

- (v) To sign contracts of a value below £50,000 or some other officer authorised by him or her to do so.
- (vi) To approve jointly with the Section 151 Officer acquisitions of land in respect of their service area up to a capital value of £100,000 per site or with a periodic payment of less than £20,000 per annum in consultation with the relevant Portfolio Holder.
- (viii) To approve jointly with the Section 151 Officer disposals of land in respect of their service area up to a capital value of £50,000 per site in consultation with the relevant Portfolio Holder.

4. CHIEF EXECUTIVE

- (i) To exercise the functions of the Authority's Head of Paid Service under Section 4 of the Local Government and Housing Act 1989 and in this role:
 - (a) to exercise overall responsibility for corporate management and operational issues (including overall management responsibility for all staff);
 - (b) to give professional advice to all parties in the decision making process (the Cabinet, Scrutiny Bodies, the Council, Boards and Committees);
 - (c) to ensure that the Authority has a system of record keeping for all key and executive decisions (a key decision is defined at page 26); and
 - (d) to ensure that the Authority achieves and delivers its objectives; and
 - (e) to represent the Authority on partnerships and external bodies (as required by statute or by the Authority).
- (ii) To co-ordinate, direct and monitor the Authority's initiatives to achieve Best Value in the delivery of its functions.
- (iii) To be responsible for performance review issues.
- (iv) To lead the Corporate Leadership Team.
- (v) After consultation with the Leader of the Council, to authorise action and incur expenditure, where urgent action is needed to enable the Authority to fulfil its functions.

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- (vi) To suspend the Director of Services, Director of Housing and Heads of Service where their continued presence at work may prejudice an investigation or where there is a prima facie case of gross misconduct; the members of the Cabinet to be notified as soon as possible after the action is taken in accordance with the Employment Procedure Rules contained in the Constitution.
- (vii) To act as Returning Officer, Local, Acting or Deputy Returning Officer in:
 - Local Elections
 - Parliamentary Elections
 - European Elections
 - Police and Crime Commissioners' Elections
 - Referenda
- (viii) To undertake the duties of Electoral Registration Officer.
- (ix) To consider and co-ordinate any investigation by the Local Government Ombudsman.
- (x) To consider and report on any report of the Local Government Ombudsman and to decide on and implement the action to be taken.
- (xi) All activities in connection with the Council's Human Resources or civic/ceremonial function.
- (xii)
 - (a) To determine all staffing matters in accordance with the Officer Employment Procedure Rules. This includes determining matters relating to structure (additions, reductions and other changes to the establishment) as she considers appropriate following consultation with the Leader and Deputy Leader.
 - (b) The appointment, dismissal or discipline of staff, except in relation to those posts listed in paragraph 1.2 of the said Rules.
 - (c) Where the decision of the Head of Paid Service taken under (a) above requires consideration of the financial/budgetary implications and a decision in that respect only, then the matter will be referred to the Cabinet, provided that the remit of the Cabinet shall be limited to decisions on financial matters only.
 - (d) The Head of Paid Service may delegate the discharge of this function to another officer.
- (xiii) To make interim appointments to fill vacancies, and to make interim designations as Chief Finance Officer and Monitoring Officer where a vacancy arises in such position, the term of each such appointment or designation not to extend beyond 18 months without the confirmation of the Appointments Panel.

- (xiv) To authorise the use of juveniles and vulnerable adults as covert human intelligence sources under the Regulation of Investigatory Powers Act 2000.
- (xv) To take urgent action necessary to protect the interests of the Authority, some or all of the Authority's area or some or all of the inhabitants of the Authority's area.
- (xvi) To make agreements with other local authorities and external agencies in compliance with the Council's CPRs for the placing of staff and joint working arrangements (including committing expenditure within authorised budgets).

SERVICE FUNCTIONS

- (i) Performance management.
- (ii) Project management.
- (iii) Local strategic partnerships/LEPs.
- (iv) Health and safety (internal).
- (v) Risk management.
- (vi) Communications and consultations.
- (vii) Media management, public relations and marketing.
- (viii) Corporate overview on diversity issues.
- (ix) Accountancy services.
- (x) Information management including Data Protection and Freedom Of Information.
- (xi) Elections and electoral registration.
- (xii) National Land and Property Gazetteer.
- (xiii) Legal services (without prejudice to the statutory role and function of the Monitoring Officer).
- (xiv) Members' services and members' development.
- (xv) Strategic asset management including land sales.
- (xvi) Finance, financial planning and procurement.

- (xvii) Revenues and benefits.
- (xviii) Administration of meetings of the Council, Boards, Committees and Sub-committees and typing and clerical services.
- (xix) Internal Audit.
- (xx) Property development.
- (xxi) Property/facilities management and maintenance (non-housing).
- (xxii) ICT.
- (xxiii) Street naming and numbering and replacement of street nameplates.
- (xxiv) All activities relating to the discharge of the function as a Licensing Authority under all relevant legislation.
- (xxv) All activities in relation to the discharge of the environmental health function of the Council, including environmental protection/enforcement, occupational health and safety, food safety, animal welfare, environmental strategy, pest control and the appointment of Port Medical Officer(s) and/or Consultants for Communicable Disease Control.
- (xxvi) Corporate complaints procedure.

SPECIFIC FUNCTIONS

EXECUTIVE FUNCTIONS

- (i) To administer all aspects of housing benefit and Council Tax benefit.
- (ii) To discharge the Authority's responsibilities for billing, collection and enforcement of Council Tax, non-domestic rates and all valuation matters.
- (iii) To deal with demands and notices, liabilities, reliefs and exemptions, and for non-domestic rates to recommend to the Cabinet guidelines for the granting of discretionary rate relief, partially occupied properties and hardship relief and administer the scheme in accordance with the approved guidelines.
- (iv) In addition to the Head of Legal and Support Services to represent the Authority and appear as an advocate on the Authority's behalf in any legal proceedings involving the executive functions referred to clauses (i) and (iii) above.
- (v) To grant and determine temporary lettings and licences of Council owned land and buildings.

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- (vi) To enter into deeds of dedication on such terms as the Chief Executive sees fit.
- (vii) To agree perpetual and fixed term easements and wayleaves on such terms as the Chief Executive sees fit.
- (viii) To determine rent reviews and to instigate and participate in arbitrations.
- (ix) To agree terms for the surrender of leases.
- (x) To authorise action to determine a lease in the event of rent arrears or other breach of covenant.
- (xi) To agree terms for waiving covenants, whether freehold or leasehold.
- (xii) To approve and issue consents for assignments, sub-lettings, alterations, additions and changes of use.
- (xiii) To make and settle claims for dilapidation.
- (xiv) To appropriate land belonging to the Authority at proper value.
- (xv) To agree the grant and renewal of leases of land and buildings where the annual rental does not exceed £40,000.
- (xvi) Following consultation with Asset Management Group, to approve the Asset Management Policy.
- (xvii) In exceptional circumstances acting on advice of the Section 151 Officer and in consultation with the Leader of the Council accept offers for land and property for a value in excess of £50,000 per site in accordance with and to give effect to the Council's policies and programmes (subject to a report being made to the next available Cabinet meeting setting out the reasons for urgency).
- (xvii) To determine applications for discretionary non-domestic rural rate relief following consultation with the ward member(s) for the settlement concerned and the portfolio holder.
- (xix) Subject to those matters reserved for decision by the Licensing Committee, the Licensing Sub-committee and the Taxi and Private Hire Sub-committee, to exercise all those functions for which the Council is responsible concerning licensing and registration and the grant of consents and refusals set out in Regulation 2 and Schedule 1 of the Regulations including the determination of applications for licences, permits and registrations.
- (xx) To issue a closing order on a takeaway food shop.

5. DIRECTOR OF SERVICES

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

- (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) Awarding schedule of rates contracts.
- (xv) Social inclusion.
- (xvi) Community safety and CCTV.
- (xvii) Community health, development and social regeneration.

- (xviii) Leisure facilities - management and operation including sports and recreation facilities.
- (xix) Cultural services.
- (xx) Arts, entertainment, heritage and tourism and tourist information.
- (xxi) Sports and leisure development.
- (xxii) Gypsies and travellers.
- (xxiii) Community enterprise.
- (xiv) External resources, grants and bids support.
- (xxv) Private sector housing (including affordable housing).

SPECIFIC FUNCTIONS

COUNCIL FUNCTIONS

- (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.

EXECUTIVE FUNCTIONS

- (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.

And arising from his/her respective functions the Chief Executive and Directors are authorised:

- (a) To manage, direct and control all resources allocated to the Directorate in accordance with the Council's policies and procedures.
- (b) To co-ordinate and monitor work through approved plans and policies, ensuring compliance with targets and performance to the relevant Board or committee.
- (c) To determine the level of charges for Council services in order to maximise income and in accordance with agreed charging policies.
- (d) To ensure compliance with and discharge of all relevant legislation, Acts of Parliament orders, regulations and directives and the Council's policies and procedures (including all enforcement matters).

- (e) To provide and submit a bid for resources in accordance with the approved budget process.
- (f) To support members in their monitoring and community governance roles.
- (g) To recommend to the Head of Legal and Support Services the prosecution or instigation of any legal proceedings on behalf of the Council.
- (h) To issue licences and registrations relating to any of the approved functions.
- (i) To support the Cabinet in the development of the Council's policy framework.
- (j) In the absence of the Chief Executive and in accordance with the agreed rota, to undertake on his/her behalf such actions as are required to enable the Council to fulfil its functions.

6. DIRECTOR OF HOUSING

The officer is authorised by the Council to discharge all activities in relation to the discharge of the Council's function as Local Housing Authority either 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.
- ix. To reimburse tenants for tenants' improvements.
- x. To transfer tenancies into joint names and vice-versa.
- xi. To agree mutual exchange.
- xii. To take immediate action to secure the removal of trespassers from housing land and property.
- 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, after consulting with tenants and Ward Members, and in consultation with the Portfolio Holder.

7. HEAD OF LEGAL AND SUPPORT SERVICES

(i) Monitoring Officer

To exercise the functions of the Authority's Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.

Whilst changes to the "executive arrangements" within the Constitution may only be changed by resolution of the full Council after consideration of the proposal by the Monitoring Officer, save that the Monitoring Officer is given delegated authority to make changes to the Constitution to reflect changes of fact and law, and decisions of the Council and of the Cabinet.

(ii) Legal Proceedings

Acting on the recommendations of the Chief Executive or the Director (who has been given authority to act on a particular service function in accordance with the Scheme of Delegation) or where it is necessary to give effect to a decision of the Council, to institute, prosecute, defend, conduct, participate in, withdraw or settle any legal proceedings brought by or against the Council, to make any necessary applications and to take steps to enhance or protect the Council's legal position or interest.

To negotiate and settle claims and disputes without recourse to court proceeding including the use of alternative dispute resolution.

To represent the Authority and appear as an advocate on the Authority's behalf in any legal proceedings.

To apply for an anti-social behaviour order.

(iii) Urgent Action

In any circumstances where urgent action is required, acting on the recommendation of the Chief Executive or the Director (who has been given authority to act on a particular service function in accordance with the Scheme of Delegation) or where it is necessary to give effect to a decision of the Council, or where otherwise duly authorised, to institute, prosecute, defend, conduct, participate in, withdraw or settle any legal proceedings brought by or against the Council and to take immediate legal action to enforce rights or obligations when he or she considers it to be in the interests of the Authority to do so.

(iv) Authority to Sign Documents in Legal Proceedings

To sign the following on behalf of the Council:

- (a) Any document necessary in legal proceedings on behalf of the Council and
- (b) Informations and complaints, and lay them on behalf of the Council for the purpose of Magistrates Court proceedings unless Statute provides otherwise.

(v) Authority to Sign Contracts and Other Documents

To sign any contract and other documents whether under seal or not.

(vi) Arbitration

Acting on the recommendation of the Chief Executive or the Directors, to refer contractual disputes to arbitration and to give agreement as to the appointment of such arbitrator.

(vii) Compensation

After consultation with the Chairman of the Audit and Governance Committee, to make compensation payments of up to £500 to victims of maladministration.

(viii) Counsel

To instruct Counsel and to retain the services of costs specialists, parliamentary agents or outside solicitors and to obtain expert advice on any matter affecting or likely to affect the interests of the Authority.

(ix) Proper Officers

To designate “Proper Officers” for the purpose of particular statutory functions and to make any changes needed to the table at Section 7 in Part 3 of the Constitution.

8. SPECIFIC DELEGATION TO OFFICERS IN CONSULTATION WITH OTHERS

(a) Chief Executive

Consideration of pastoral measures and to respond after consultation with ward members.

In consultation with the Director of Services, to negotiate and conclude agreements under Section 106 of the Town and Country Planning Act 1990 along lines previously approved by Planning Committee.

Subject to consultation with the Highway Authority and the police and ward members, to make orders under Section 21 of the Town Police Clauses Act 1847 relating to the temporary closures of streets and temporary direction of traffic.

Subject to consultation with ward members, the Director of Services to make public path orders under the Town and County Planning Act 1990 and to confirm unopposed orders.

Subject to consultation with ward members, the Director of Services to make public path orders under the Highways Act 1980 and to confirm unopposed orders.

In consultation with the Chairman of the Cabinet, ward members, the Director of Services, Ashby Town Council and the Highways Authority, to agree the grant of a licence, its terms and conditions for the operation of the annual Statutes Fair at Ashby de la Zouch.

Subject to consultation with ward members, the Director of Services to respond to consultations made by Leicestershire County Council with regard to proposed public footpath orders where the orders are unopposed.

To determine applications for bonfires on Council land subject to consultation with ward members, the Director of Services as appropriate and Fire Officer.

Subject to consultation with the Director and relevant Heads of Service and ward members, to approve and issue licences for the temporary use of Council owned land.

Following consultation with the Director, to reject applications to purchase Council owned land.

The approval of lease cars to employees.

(b) Director of Services

To lodge objections with traffic commissioners against applications for haulage licences subject to consultation with ward members and to report to next Planning Committee (in connection with those objections lodged by the Local Planning Authority).

In consultation with ward members, to make responses to Leicestershire County Council and the Highways Agency on traffic proposals.

9. DESIGNATED AUTHORISED OFFICERS

Signatories to Financial Documents

Chief Executive
Head of Finance
Head of Legal and Support Services
Financial Planning Team Manager
Financial Services Team Manager
Senior Exchequer Services Officer

10. JOINT ARRANGEMENTS

The Council has entered a joint arrangement with neighbouring District Councils for the enforcement of decriminalised parking.

The Council has entered a joint arrangement with neighbouring Councils for the administration of Revenues and Benefits.

The Council has entered a joint arrangement with the local authorities in Leicester, Leicestershire and Rutland for the establishment of a Police and Crime Panel.