

## **Part 1**

### **Terms of Reference and Scheme of Delegation**

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## **1.1 Delegation of Functions**

This section of the Constitution summarises which part of the decision making process is responsible for which function.

The allocation of functions follows the Local Authorities (Functions and Responsibilities) (England) Regulation 2000 as amended.

## **1.2 Terms of Reference for Committees**

### **Executive and Executive Portfolio holders**

This part of the constitution together with the Executive Procedure Rules principally constitutes the Executive arrangements as set out in the Local Government Act 2000. The Executive arrangements set out here are interrelated to other parts of the constitution.

The Executive is collectively responsible for all executive functions as defined in the Local Government Act 2000 as amended. These may be made by the Executive collectively, exercised under joint or area arrangements or delegated to individual Portfolio Holders or Council officers.

The Executive may not make decisions on matters which they are prohibited from making by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and other subsequent legislation.

The Executive shall only make decisions within the budget and policy framework except in cases as set out in the Executive Procedure Rules.

The Executive shall collectively make all Key Decisions on behalf of Cherwell District Council. The Executive may choose to delegate these to a Portfolio Holder, officer, area committee or joint arrangements with another authority.

Executive Portfolio Holders shall in the first instance make all Non-Key Decisions within their portfolio area unless delegated in this constitution to an officer. The Portfolio Holder may decide to delegate these to an officer, area committee or joint arrangements with another authority or refer them to the Executive for collective consideration.

Officers shall take all decisions in the first instance delegated to them in this constitution within their area of responsibility. An officer may chose to refer a decision to a Portfolio Holder, who in turn may decide to refer a decision to the Executive for collective consideration.

Even where Executive functions have been delegated, this does not prevent the discharge of delegated functions by the person or body who delegated them. This shall be the case should the decision maker find that a conflict of interest has arisen, then the function will be exercised in the first instance by the person or body by whom the delegation was made

## **Decisions made under the Executive Arrangements**

A notice of any decision made under the Executive arrangements shall be published and sent to all members as soon as is practical following the decision being made in accordance with the Call-in provisions of this constitution.

## **Executive Terms of Reference**

The Executive will consist of the Executive Leader together with at least two, but not more than nine, other Councillors appointed to the Executive by the Leader of the Council. The Executive will conduct itself in accordance with this constitution and in particular the Executive Procedure Rules.

The functions of the Executive are principally to:

- make recommendations to the Council on the formulation, adoption and revision of the Budget and Policy Framework and all of the Council's corporate strategies
- make Key Decisions within the agreed Budget and Policy Framework
- make decisions referred to it by Portfolio Holders and officers with delegated decision making powers.

Additionally the Executive has the following specific functions:

- Setting the Council Tax Base
- Performance Monitoring and Management
- Developing Council Policy.

## **Key Decisions**

A Key Decision is a 'significant' decision that is legally within the power of the Council to make, is not precluded by statute from being made under the Executive arrangements and is not otherwise retained for decision by Council or delegated to a Committee of Council or officer by this constitution

Significance - A decision is significant if it meets the financial and/or community impact criteria:

Financial

A decision that will result in the Council:

- incurring potential revenue expenditure or savings above an amount to be determined by Council annually

- incurring potential capital expenditure or savings above an amount to be determined by Council annually
- procuring or awarding any Contract having a total value exceeding £500,000.

**and/or**

### **Community Impact**

A decision that is significant in its effects on communities living or working in an area comprising two or more Wards in the area of the Council. That is a decision where:

- A significant number of users of the service in the Ward(s) will be affected and/or
- An impact that will last for a number of years, or be permanent; and /or
- A significant impact on communities in terms of environmental and social well-being.

The following are not regarded by the Council to constitute key decisions:

- Implementing approved budgets or policies and strategies where there is little or no further choice involved and the main decision has already been taken by the Council in agreeing the budget and policy framework.
- Implementing approved actions and targets in annual service plans.
- Decisions by the Head of Finance which are part of the ordinary financial administration of the Authority, notably those relating to investments, within the agreed Treasury Management policy.
- Implementing projects for which specific conditions have been attached by external funders, such as the Government or European Union.
- The award of contracts for the provision of works, goods and services, within an agreed policy and budget and where a decision has been made.
- Changes arising from amendments to statute where there is little or no discretion.

### **Executive Portfolio Holders**

Areas of responsibility, known as Executive Portfolios are determined by the Council and are assigned by the Leader to individual Members of the Executive whom he appoints. The Leader may re-allocate functions between portfolio holders during the Council year.

The function of an Executive Portfolio Holder is to:

- Have general responsibility for the standards and performance of functions within their portfolio.
- Make recommendations to the Council on the formulation, adoption and revision of the Budget and Policy Framework and all of the Council's corporate strategies.
- In the first instance make Non Key Decisions within their Portfolio as allocated by the Leader of the Council.
- In the first instance make decisions referred to them by officers with delegated decision making powers.

Executive Portfolio Holders shall in the first instance make all Non-Key Decisions (as defined below) within their portfolio area unless delegated in this constitution to an officer. The Portfolio Holder may choose to delegate these to an officer or refer them to the Executive for collective consideration if any of the following circumstances apply to the matter under consideration:

- A proposed decision is deemed to be controversial either by the Portfolio Holder or the relevant Strategic Director or Service Head, or such Officer has registered major concerns about the proposed decision
- It impacts on more than one area of Council activity
- It has major resource implications
- It does not fall squarely within current policies
- The individual portfolio holder has a prejudicial interest (whereupon he shall take no part in the collective decision).

If the relevant portfolio holder is not available or unable to exercise his delegated authority at the appropriate time and in the view of the Strategic Director the decision cannot wait until their return or a meeting of the Executive, the Leader of the Council or in his absence the Deputy Leader shall have reserve powers to take a decision on the issue in question.

### **Non-Key Decisions**

All decisions that are legally within the power of the Council to make, are not precluded by statute from being made under the Executive arrangements, are not Key-Decisions and are not otherwise retained for decision by Council or delegated to a Committee of Council or an officer.

## Planning Committee

(18 members made up primarily of non-executive members, but with specific reservation of a place for Executive Member holding the portfolio responsibility for planning matters. 12 named substitute members)

Except where there is a specific delegation to a Service Head:

- (a) To determine and advise on all planning applications, all special determination and prior approval categories and any local authority development proposals, subject to the following provisos:
- That the Head of Development Control and Major Developments may refer any application to Council for final determination, where the Committee is minded to approve or refuse that application if the decision is fundamentally against local and national planning policy and/or the decision is contrary to proposals formulated by the executive or relevant portfolio holder.
  - That in accordance with the relevant Council Procedure Rule at least one third of Council Members have signed a statement to the effect that they are of the view that a particular application is of such special significance to the District that it ought to be determined by Council.
- (b) To authorise or determine:
- planning obligations;
  - all matters concerning public path orders required as a result of planning legislation;
  - advertisement consents;
  - conservation area consents and notices;
  - revocation or modification of planning permissions by order under planning legislation;
  - any enforcement action including in respect of advertisement contraventions;
  - tree preservation orders;
  - consent to carry out work to protected trees;
  - listed building consents and notices;
  - certificates of alternative development;
  - direct action by execution of works, taking steps and/or carrying out operations, by or on behalf of the Council under any current planning legislation, including the recovery of any costs or expenses;
  - legal proceedings in respect of any breach of planning obligations;
  - any other notices, orders, demands, permissions, consents and grants under current planning legislation; and

- observations, comments and representations on development proposals being determined by other bodies and/or in adjoining or nearby administrative areas.
- (c) To administer the registration and record keeping provisions contained in planning legislation.
- (d) To exercise the Council's statutory duties in respect of the Building Regulations and associated legislation.
- (e) To exercise the Council's statutory powers in respect of land drainage and associated legislation.
- (f) To do anything which is incidental, conducive or calculated to facilitate any of the Committee's functions or which are necessary for the discharge of the functions.
- (g) To exercise all powers, duties and functions of the Council contained in or referred to in the statutory provisions from time to time in force within the terms of reference of the Committee.

### **Licensing Committee**

(12 members and 5 named substitute members based on proportional representation with each represented party having at least one substitute member)

- To deal with applications to exhibit an unclassified film, or to change the classification given to any film by the British Board of Film classification, for exhibition within the District.
- To deal with all matters which are the responsibility of the Council in relation to hackney carriage and private hire vehicles licensed by the Council, except those delegated to the Sub-Committee or Officers.
- To deal with all matters which are the responsibility of the Council under the Licensing Act 2003 except those which are delegated to the Sub-Committee or Officers.
- To deal with all matters which are the responsibility of the Council under the Gambling Act 2005 except those which are delegated to the Sub-Committee or Officers.
- To deal with all matters and determine applications which are the responsibility of the Council in relation to Street Trading under Section 115 of the Highways Act 1980 and Section 3, schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.



- Any matter relating to proposed changes to the public rights of way network, and public rights of access to open country and common land, which is not the result of the consideration of a planning application.
- So far as the responsibilities may arise under the relevant legislation, functions set out in Part B of Schedule 1 to the Local Authorities Functions and Responsibilities (England) Regulations 2000, relating to taxi, private hire vehicle, gaming, entertainment, food and miscellaneous licensing.
- Any miscellaneous functions relating to highways which may be the responsibility of the Authority which are not discharged by the Planning Committees as set out in Part I of the Schedule to the Local Authorities Functions and Responsibilities (England) (Amendment) Regulations 2001.
- To determine Public Path Order applications (which are not the result of the consideration of a planning application) which the Head of Urban and Rural Services proposes to refuse, and (ii) (if approved) to confirm such Orders where no objections have been made within the statutory period; and (iii) to determine whether to abandon or to refer to the Secretary of State an Order to which objections have been made within the statutory period.

#### **Licensing Committee Sub-Committee**

- The hearing of, and decisions on, applications and notifications under the Licensing Act 2003 where this cannot be decided by the Head of Urban and Rural Services because valid representations/objections have been received and not withdrawn.
- The hearing of, and decisions on, applications for review of a premises licence/Club Premises Certificate under the Licensing Act 2003.
- The hearing of, and decisions on, applications for and notifications under the Gambling Act 2005 where this cannot be decided by the Head of Urban and Rural Services because valid representations/objections have been received and not withdrawn.
- The cancellation of club gaming/club machine permits under the Gambling Act 2005
- The cancellation of a licensed premises gaming machine permits where a permit holder requests a hearing under the Gambling Act 2005
- Consideration of a temporary use notices under the Gambling Act 2005 where an objection has been received unless each person who would be entitled to make representations agrees that a hearing is unnecessary and that the Head of Urban and Rural Services is satisfied that a counter notice is not required.

- Decision to give a counter notice to a temporary use notice under the Gambling Act 2005.
- To provide a forum for applicants who may wish to appeal against decisions of the Head of Urban and Rural Services in respect of licensing of hackney carriages, private hire vehicles, hackney carriage/private hire vehicle drivers and private hire vehicle operators, without prejudice to the right of applicants to appeal to the Magistrates' Court.
- To provide a forum for applicants who may wish to appeal against decisions of the Head of Urban and Rural Services in respect of Street Trading and provisions of facilities on the Highway.
- To provide a forum for applicants who may wish to appeal against decision of the Head of Safer Communities and Community Development in respect of animal welfare Licensing.

**Note:** The Licensing Subcommittee will be made up of any 3 Members to be drawn from the membership of the parent Committee. Members must have received appropriate training and must have taken a non-committal approach to any lobbying in respect of the appeal to be heard, otherwise they may not participate in the hearing.

**The delegation of functions will be in accordance with the Licensing Act 2003**

### **Appeals Panel**

(10 members with no substitute members)

- To hear and determine any appeals by employees in accordance with the relevant Council procedures
- To be the investigating committee for the purpose of disciplinary action in the case of an officer covered by the terms and conditions for Chief Executives and Chief Officers where this is permitted by law.

### **Personnel Committee**

(12 members with casual substitutes who shall not be members of the Appeals Panel)

- A subcommittee of the Personnel Committee will be responsible for carrying out the appraisal of the Chief Executive. The Leader of the Council must be invited to participate in the appraisal.
- Determination and review of all policies affecting the employment of staff.

- Monitoring of employment statistics for the authority.
- To approve the creation of new posts where this will be an increase to the establishment and there is no budget.
- To receive and act on recommendations of the Council and Employee Joint Committee.
- To exercise discretion on behalf of the Council in the decision to award any enhanced pension rights.
- To agree any restructuring involving more than five posts and/or compulsory redundancies.
- Making of appointments at Strategic Director and Head of Service level. Anyone involved in the decision must be present throughout the interview process.

### **Accounts, Audit and Risk Committee**

(11 members with casual substitutes)

- Ensuring that the Council's corporate governance arrangements are adequate and operating effectively in practice.
- Considering the Council's Code of Corporate Governance and the Annual Governance Statement before approval by the Executive.
- Monitoring the effectiveness of the Council's risk management procedures, the internal control environment and counter fraud and corruption arrangements and report any concerns to the Executive.
- Endorse the annual Risk Management Strategy and recommend it to the Executive for adoption.
- Approval of the Council's Statement of Account.
- Considering any reports of internal or external auditors and agreeing the action to be taken from those reports including any recommendations to the Council.
- To consider and make recommendations on the internal audit plan.
- To consider a report on the effectiveness of the internal audit system at least annually.
- To consider risks associated with significant partnerships entered into by the Council and to receive reports on the management of those risks.

- To receive the District Auditor's management letter and make recommendations arising from it.
- To produce an annual report to Council on the activities of the committee

### **Standards Committee**

(Membership as set out in the standards committee procedure rules)

- Promoting and maintaining high standards of conduct by Councillors and co-opted members.
- Assisting the Councillors and co-opted members to observe the Members' Code of Conduct.
- To provide advice and guidance on the Code of Conduct for members of parish and town councils.
- Advising the Council on the adoption or revision of the Members' Code of Conduct.
- Monitoring the operation and effectiveness of the Members' Code of Conduct.
- Advising, training or arranging to train Councillors, employees and co-opted members on matters relating to the Members' Code of Conduct.
- Assessment and review of complaints about Members, to conduct determinations' hearings and to impose sanctions as a consequence of a finding of misconduct within the limits set by statutory regulations and following the Standards Board Guidance.
- Granting dispensations to Councillors, co-opted members and Parish and Town Councillors from requirements relating to interests set out in the Members' Code of Conduct.
- Granting exemptions for politically restricted posts.
- To make representation to the Local Government Association, Central Government and Standards Board about any matter relating to the general principles of conduct for Members or employees of the Council.
- To be responsible for liaison between the Council and external agencies in connection with any matter within the Committee's Terms of Reference.
- Provide advice and guidance to Councillors appointed to serve as the Council's representatives on outside bodies.

- To produce an annual report to Council on the activities of the committee.
- To act as a selection panel and to advise the Council on the appointment of independent members and Parish Representatives on the Committee.
- To carry out a general review of the Council's procedures, including the Council's Constitution, where changes are proposed which may impact on the ethical framework and to report to the Council any changes required. Only changes which may impact on the ethical framework need to be considered by the Standards Committee. Whether there is such an impact shall be determined by the Head of Legal and Democratic Services.

The Standards Committee may appoint subcommittees to exercise functions in relation to the hearing, adjudication and determination of any sanction, of cases pursuant to Sections 57A and 57B of the Local Government Act 2000 involving:

- the initial assessment of an allegation;
- the review of any decision to take no action in respect of an allegation;
- a direction that action is taken other than to refer an allegation for investigation and
- the hearing and determination of a complaint and the imposition of a sanction as appropriate following a completed investigation by the Monitoring Officer.

### **Overview and Scrutiny Committee**

(12 members with 2 named substitutes for each political group)

The Overview and Scrutiny Committee has overall responsibility for the performance of all overview and scrutiny functions (under Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007) on behalf of the Council and ensuring its effectiveness.

- To consider and call in decisions relating to the discharge of Executive functions before those are put into effect. The Overview and Scrutiny Committee can ask the Executive to reconsider any such decision (or, exceptionally, refer it to Council).
- To consider decisions relating to the discharge of the Executive functions after they are put into effect.

- To consider the Forward Plan and comment as appropriate to the decision-maker on key decisions (before they are taken by the Executive).
- To conduct reviews of policy, services and aspects of services where there is an identifiable need, by itself or through setting up a Task and Finish Group.
- To make suggestions on the development of policies and suggest new policies where appropriate.
- To work with or appoint representatives to work with other local authorities and organisations to carry out joint scrutiny.
- To assist the Executive in the development of the Budget and Policy Framework.
- To receive and consider recommendations on issues requiring scrutiny in terms of wellbeing powers of Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007 and, where appropriate, establishing Task and Finish Groups, or referring to the Resources and Performance Scrutiny Board, topics for scrutiny.
- To create Task and Finish Groups and set their terms of reference, in order to fulfil the overview and scrutiny requirements of the authority and the annual overview and scrutiny work programme.
- To receive reports, presentations and updates in order to scrutinise the Executive's priorities for and its performance in the year.
- To review and scrutinise the performance of the Executive, Executive Portfolio Holders, and appropriate officers both in relation to individual decisions and over time.
- To approve an annual overview and scrutiny work programme, including the power to request and receive the work programme of the Resources and Performance Scrutiny Board and Task and Finish Groups it appoints so as to ensure that their time is effectively and efficiently utilised and that the potential for duplication of effort is minimised.
- To produce a unified annual report for the whole scrutiny process, with sections provided by the Resources and Performance Scrutiny Board and each of the Task and Finish Groups.
- To allocate money from approved overview and scrutiny budgets for its own use, and upon request to the Resources and Performance Scrutiny Board and Task and Finish Groups to support them in meeting their objectives and further the overview and scrutiny work programme and development.

- The overview and scrutiny work programme will not include the following “excluded matters”:
  - a) Any matter relating to a decision on a specific planning application
  - b) Any matter relating to a decision on a specific licensing application
  - c) Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment; including but not limited to:
    - Standards decisions and items which may be brought for decision;
    - Appeals decisions and items which may be brought for decision;
    - Breaches of the Constitution and its protocols e.g. Code of Conduct;
    - Matters relating to the terms and conditions of employment or conduct of individual or groups of staff or Members.
  - d) Any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee.
  - e) Audit process and items which are likely to be considered by the Audit process.
  - f) Matters within the proper remit of the Section 151 and Monitoring Officers.
  - g) Matters relating to a particular identifiable service recipient or potential service recipient.
  - h) Complaints or matters before the courts or local government Ombudsman.
  - i) Contractual matters, other than performance monitoring and review, except with the agreement of the Executive.

### **Resources and Performance Scrutiny Board**

(12 members with 2 named substitutes for each political group)

The Resources and Performance Scrutiny Board has responsibility for carrying out overview and scrutiny for the Council’s resources, performance and effectiveness of Partnerships to which the Council appoints representatives.

- To scrutinise the Council's performance in relation to financial planning, including budgets and target setting.
- To assist and monitor the Executive in the continued development of a medium term budget strategy.
- To review the management of resources made available to the Council and to scrutinise its financial management, treasury management, property and asset acquisition and disposal, capital programme and to evaluate the adequacy and effectiveness of the Council's financial and operational policies and procedures including financial and accounting management.
- To perform the overview and scrutiny function in relation to all of the Council's corporate performance and value for money activity. In particular the effectiveness of partnerships of which the Council is a member and to carry out the scrutiny of partnerships as set out in Local Government and Public Involvement in Health Act 2007.
- To review the local authority's strategic performance and monitor year-on-year performance indicators and benchmarking.
- To review the progress of Services in achieving the objectives of their Business Plans and their contribution to the Corporate Plan and Community Strategy.
- To undertake performance monitoring and review of contractual arrangements that the Council has entered in to.

### **1.3 Officer Scheme of Delegation**

This scheme sets out the extent to which the powers and duties of the Council is delegated to officers. The scheme operates under the Local Government Act 1972 and the provisions for delegation authorised by that Act and any subsequent relevant legislation.

Under this scheme officers must keep Members properly informed of action arising within the scope of these delegations. Officers must liaise closely with the Executive on executive functions and the relevant the Chairman of one of the regulatory committees when the matter falls within the remit of that committee.

All references to legislation in this scheme shall be deemed to include any subsequent amendments to such legislation.

Officers shall inform the local Ward Member(s) when they exercise any delegated powers specifically affecting their ward and when the matter is likely to be regarded as politically sensitive or contentious.



Officers shall consult as appropriate and have due regard to advice given. In particular Officers should consult with legal, finance and human resources.

Under section 101 of the Local Government Act 1972 the Council may authorise an officer of the authority to commission and monitor work for and on behalf of the Council by people who are not officers of the authority and such people will be bound by this scheme, and the obligations contained in it, at all times when engaged on Council business.

**It is always open to an officer not to exercise delegated powers but to refer the matter to the Executive, one of the regulatory committees or to Council for a decision.**

### **Conditions of delegation**

- The Council authorises the officers identified to exercise the powers set out and all powers delegated to Strategic Directors and Heads of Service may be exercised by any other duly authorised officer on their behalf.
- The powers delegated to Heads of Service may be exercised by the appropriate Strategic Director or the Chief Executive.
- Any exercise of delegated powers shall comply with statutory restrictions, all policies and plans approved by the Council, the Council's Contract and Financial Rules of Procedure and the Council's Code of Conduct and adopted protocols.
- Any exercise of delegated power must be made within the approved revenue and capital budgets (subject to any discretion permitted by the Financial Rules of Procedure).
- Any acceptance of quotations and tenders must be in accordance with the Council's Contract Rules of Procedure.
- Any exercise of delegated powers shall have regard to any report by the Head of Paid Service, the Monitoring Officer or the Officer designated under section 151 of the Local Government Act 1972.

### **1.4 General Delegation to Strategic Directors and Heads of Service**

All Strategic Directors and Heads of Service have the following delegated authority unless explicitly limited to certain Heads of Service.

#### **Equipment**

- Purchase of vehicles, plant and equipment for which expenditure has been approved subject to any policy for standardisation (but if the purchase involves a leasing arrangement such arrangement

must be made by the Strategic Director Customer Services and Resources as Section 151 officer).

- Hire of plant subject to inclusion of cost of hire within approved estimates.
- Disposal of surplus plant, equipment and materials.

## **Legal**

- Service of requisitions for information as to ownership of, or other interests in, any land or property under statutory powers.
- Service of requisitions for information under the Crime and Disorder Act 1998.
- The release of Council held information under the Data Protection Act 1998 and the Freedom of Information Act 2000 subject to consultation with the Head of Legal and Democratic Services on any application of exemptions.
- To sign Statements of Truth under the Civil Procedure Rules 1998 on behalf of the Council.
- Authority to apply for planning permission in respect of small projects and minor modification to projects.
- To grant renew refuse or cancel any authorisation that may be required under the Regulation of Investigatory Powers Act 2000 so far as it affects their service area. This power may only be exercised by those Heads of Service who have investigating officers in their service area or by the Monitoring Officer, the Deputy Monitoring Officer or the Chief Executive.
- To sign licences and notices relevant to their service area subject to consultation with the Head of Legal and Democratic Services where necessary.
- Authority to appear, institute proceedings, prosecute, defend, negotiate a settlement and take any steps necessary in any proceedings on behalf of the Council where the matter falls within the remit of the relevant service unit. Such authority to be exercised subject to the Head of Legal and Democratic Services being satisfied as to the evidence.
- Formal responses to consultation documents.
- To make decisions on any objection submitted which relates to a proposal, application or other matter within their service area.

- Service of any statutory notices affecting their service area subject to consultation with the Head of Legal and Democratic Services where appropriate.
- To authorise the carrying out of work in default of compliance with any statutory notice subject to consultation with the Head of Legal and Democratic Services.
- To authorise an employee to admit liability or to negotiate a settlement of any professional negligence liability claim made against that employee subject to consultation with the Head of Legal and Democratic Services.
- To authorise in writing those officers, or agents, or consultants acting on behalf of the Council who may exercise statutory powers under the relevant legislation and a copy of the authorisation must be supplied when made to the Head of Legal and Democratic Services.

### **Financial**

- Authority to incur expenditure within approved capital and revenue budgets.
- Fixing of charges for work for external bodies where the charges are not prescribed by legislation.

### **Human Resources**

- Appointment of agency staff provided costs are contained within service budgets.
- Advertisement of vacancies within establishment in accordance with establishment controls procedures.
- Appointment of staff below second tier.
- To sign job offers and/or contracts of employment for Strategic Directors (by Chief Executive), for Heads of Service (by Chief Executive or relevant Strategic Director), or other employee appointments (by Strategic Director, Head of Service or other officer delegated by one of these).
- To agree flexible contracts and working patterns including job share, home working and term time working ( in consultation with the Head of Human Resources).
- To confirm appointments on completion of probationary period.
- To implement the Council's employment procedures in line with agreed Council policy.

- To authorise officers to attend professional or educational meetings, conferences or courses in consultation with the Learning and Development Manager.
- Authorising of on-going training and individual qualification training courses subject to consultation with the Learning and Development Manager.
- To agree unpaid leave of absence and compassionate leave in consultation with the Head of Human Resources.
- Granting of contractual salary progression within career-graded posts in line with agreed Council policy and in consultation with the Head of Human Resources.
- To approve revised job descriptions and job titles where no grading increase is involved subject to the approval of the Head of Human Resources.
- The general organisation of services within the policies laid down by the Council.
- Subject to consultation with the Head of Human Resources, the Head of Finance and the Head of Legal and Democratic Services to determine new organisation structures below Head of Service provided that
  - changes do not affect more than five posts in any one restructuring
  - there are no resultant compulsory redundancies
  - change is with the agreement of existing staff
  - change can be contained within service budgets

## **Contracts**

- Authority to commence a procurement process leading to the award of a contract for works goods or services up to £150,000.
- Authority to waive the requirement to seek tenders or quotations in relation to contracts for works, goods or services below £5,000.
- Authority to approve negotiations with a tenderer submitting the Most Financially Advantageous Tender to obtain improvements in price, delivery or content in relation to contracts for works, goods or services below £150,000.
- Authority to approve the award of any contract for the procurement of works, goods or services up to £150,000.
- Signing on the Council's behalf any contract for works, goods or services below £100,000.

## **Emergencies**

If the Council needs to act urgently in any matter (including, without limitation, complying with the Emergency Plan, the Business Recovery Plan or taking any action under new legislation) the Chief Executive may authorise any action taken or expenditure incurred as necessary. A Strategic Director may act in the place of the Chief Executive where the Chief Executive is unwell, unobtainable or where there is no Chief Executive in post. The Chief Executive or Strategic Director as appropriate may delegate responsibility to a Head of Service or other nominated officer where appropriate. All such action shall be reported to the relevant committee, Executive or Council as may be appropriate at the earliest opportunity.

## **Delegation to Chief Executive and Specific Directors**

### **Chief Executive**

**This post has responsibility for the Council's overall management of the staff who work for the Council under section 4 of the Local Government and Housing Act 1989. Full details of the responsibilities are set out in the introduction to this constitution**

- Determination of appeals from people dissatisfied with a decision not to release Council held information under the Freedom of Information Act 2000.
- The suspension or dismissal of a Strategic Director or Head of Service subject to consultation with the Head of Human Resources and the Head of Legal and Democratic Services. If the suspension or dismissal is of either of these two posts external professional advice will be sought.
- Taking action under the Anti-Social Behaviour Act 2003 where the Chief Executive is specifically named as the relevant Council Officer within the Act.
- Authority to take such action and make such decisions as are necessary as Electoral Registration Officer and Local Returning Officer.
- Assigning officers in relation to requisitions of the Electoral Registration Officer.
- Providing assistance at European Parliamentary elections.
- Power to fill vacancies in the event of insufficient nominations and make temporary appointments to Parish Councils.
- Declaring vacancies in office in certain cases and giving notice of casual vacancies.

- Consulting on proposed changes to the scheme of elections.
- Duties relating to providing notice to the Electoral Commission and relating to publicity.

### **Strategic Director, Planning Housing and Economy**

No specific delegated powers

### **Strategic Director, Environment and Community**

No specific delegated powers

### **Strategic Director Customer Services and Resources**

**This post has responsibility for the Council's financial affairs under section 151 of the Local Government 1972 and section 114 of the Local Government Finance Act 1988 and provides strategic financial advice to the Council. Full details of the responsibilities are set out in the introduction to this constitution and in the Financial Regulations.**

- Power under section 92 of the Local Government Act 2000 to direct the appropriate Strategic Director or Head of Service in consultation with the relevant Portfolio Member to make ex gratia payments up to £5,000 or to provide other benefits to remedy complaints within the framework of the Local Government Ombudsman Good Practice Remedies (February 2005) document where necessary in consultation with the Monitoring Officer
- To use any other powers as the Council's Section 151 officer as defined in the Council's Financial Regulations and via statute.
- The power to opt to tax properties for VAT purposes
- Raising of loans to meet the capital requirements of the Council for such amounts and on such terms as are considered necessary, subject to the Council's Capital Programme decisions on financing and in particular its policy on being debt free
- Borrowing in sterling from banks up to a prescribed limit by way of overdraft, subject to not breaching the Council's debt free status by borrowing for longer than one year.
- Raising and repayment of temporary loans in sterling
- To accept terms and conditions attached to any Government grants
- To make any changes to the Constitution consequent upon amendments to the European thresholds on Procurement.
- The entering into of any lease agreements on behalf of the Council

## 1.5 Schedule of Proper Officer Appointments

The relevant postholders listed below have been appointed as Proper Officers for the purposes of the adjacent legislative provisions:

<b>Legislative Provision</b>		<b>Proper Officer</b>
<b>Local Government Act 1972</b>		
S.83(1) to (4)	Witness and receipt of declaration of acceptance of office	• Chief Executive
S.84(1)	Receipt of notice of resignation of elected Member	• Chief Executive
S.88(2)	Convening a meeting of Council to fill casual vacancy in the office of Chairman	• Chief Executive
S.89(1)(b)	Notice of casual vacancy	• Chief Executive
S.96(1)&(2)	Receipt of notices and recordings of disclosures of pecuniary interest	• Head of Legal and Democratic Services
S.100	Admission of public (including press) to meetings	• Chief Executive
S.115(2)	Receipt of money due from officers	• Strategic Director Customer Services and Resources
S.146(1)(a)&(b)	Declarations and certificates with regard to transfer of securities	• Strategic Director Customer Services and Resources
S.151	Financial Administration	• Strategic Director Customer Services and Resources
S.204(3)	Receipt of notice of application for a justices' licence under the Licensing Act 1964	• Head of Urban and Rural Services
S.225	Deposit of documents	• Chief Executive
S.228(3)	Accounts for inspection by any member of the Council	• Strategic Director Customer Services and Resources
S.229(5)	Certification of photographic copies of documents	• Head of Legal and Democratic Services
S.234	Authentication of documents	• Head of Legal and Democratic Services
S.236(9)&(10)	Sending of copies of byelaws to parish	• Head of Legal and

	councils, parish meetings and county council	Democratic Services
S.238	Certification of byelaws	<ul style="list-style-type: none"> <li>• Chief Executive</li> </ul>
Various	Any requirement in relation to Parish authorities	<ul style="list-style-type: none"> <li>• Head of Legal and Democratic Services</li> </ul>



Sections	specified in the Act (or in other legislation)	<ul style="list-style-type: none"> <li>• Head of Legal and Democratic Services</li> </ul>
<b>Schedule 12</b>		
para 4 (2)(b)	Signing of summons to Council meeting	<ul style="list-style-type: none"> <li>• Chief Executive</li> </ul>
para 4 (3)	Receipt of notice regarding address to which summons to meeting is to be sent	<ul style="list-style-type: none"> <li>• Chief Executive</li> </ul>
<b>Schedule 14</b>		
para 25	Certification of resolution passed under this paragraph	<ul style="list-style-type: none"> <li>• Head of Legal and Democratic Services</li> </ul>
<b>Schedule 16</b>		
para 28	Deposit of lists of buildings of special architectural or historic interest	<ul style="list-style-type: none"> <li>• Head of Planning and Affordable Housing Policy</li> </ul>
S.191(2)	Applications under Section 1 of the Ordnance Survey Act 1891	<ul style="list-style-type: none"> <li>• Head of Planning and Affordable Housing Policy</li> </ul>
<b>Local Government Act 1974</b>		
S.30(5)	To give notice that copies of an Ombudsman's report are available.	<ul style="list-style-type: none"> <li>• Monitoring Officer</li> </ul>
<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
S.41(1)	The purposes of Section 41 of the Local Government (Miscellaneous Provisions) Act 1976 – Certification of documents	<ul style="list-style-type: none"> <li>• Head of Legal and Democratic Services</li> </ul>
<b>Local Authorities Cemeteries Order 1977</b>		
	The purposes of the Order	<ul style="list-style-type: none"> <li>• Head of Environmental Services</li> </ul>
<b>Data Protection Act 1998</b>		
	Ensuring compliance with the statutory provisions and principles of the Act	<ul style="list-style-type: none"> <li>• Head of Legal and Democratic Services</li> </ul>
<b>Local Government and Housing Act 1989</b>		
S.2(4)	Recipient of the list of politically restricted posts	<ul style="list-style-type: none"> <li>• Head of Human Resources</li> </ul>
<b>Local Government (Committees and Political Groups) Regulations 1990</b>		
	For the purposes of the composition of committees and nominations to political	<ul style="list-style-type: none"> <li>• Head of Legal and Democratic Services</li> </ul>

## Groups

### **Local Government Act 2000**

S.34	Determine whether a petition is valid	<ul style="list-style-type: none"><li>• Electoral Registration Officer</li></ul>
S.99 & S.100	Regarding Members' allowances and pensions and having regard to all relevant Regulations, including The Local Authorities (Members' Allowances) (England) Regulations 2003, and The Local Government Pension Scheme and The Discretionary Compensation (Local Authority Members in England) Regulations 2003.	<ul style="list-style-type: none"><li>• Head of Legal and Democratic Services</li></ul>
	Various sections dealing with the holding of referendums	<ul style="list-style-type: none"><li>• Electoral Registration Officer</li><li>• Head of Legal and Democratic Services</li></ul>
	For the purposes of duties in respect of The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000	

### **Clean Air Act 1993**

S.51 & S.56	To exercise all functions conferred by Sections 51 and 56 of the Act	<ul style="list-style-type: none"><li>• Head of Environmental Services</li></ul>
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### **Housing Act 1985**

S.606	Submission of reports on particular houses or areas by the proper officer	<ul style="list-style-type: none"><li>• Head of Housing Services</li></ul>
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### **Public Health (Control of Disease) Act 1984**

- |      |   |   |
|------|---|---|
| S.18 | Information to be furnished by occupier in case of notifiable disease or food poisoning | <ul style="list-style-type: none"><li>• Head of Safer Communities and Community Development</li></ul> |
|      | Control of infected articles intended to be washed at Laundry                           | <ul style="list-style-type: none"><li>• Head of Safer Communities and Community Development</li></ul> |
| S.31 | Certification by officer of need for disinfection of premises                           | <ul style="list-style-type: none"><li>• Head of Safer Communities and Community Development</li></ul> |
| S.32 | Certification by officer of need to remove person from infected house                   | <ul style="list-style-type: none"><li>• Head of Safer Communities and Community Development</li></ul> |

### **Public Health Act 1936**

- |            |  |   |
|------------|--|---|
| S.79       | To serve notice to require removal of noxious matter   | <ul style="list-style-type: none"><li>• Head of Safer Communities and Community Development</li></ul> |
| S.84&85(2) | To serve notice requiring remedial action where there are filthy and verminous premises, persons or articles | <ul style="list-style-type: none"><li>• Head of Safer Communities and Community Development</li></ul> |

### **Public Health Act 1961**

- |      |                                |   |
|------|--------------------------------|---|
| S.37 | To seize any verminous article | <ul style="list-style-type: none"><li>• Head of Safer Communities and Community Development</li></ul> |
|------|--------------------------------|---|

## **MEDICAL (PROPER OFFICER) PROVISIONS**

The person appointed as the Proper Officer (Medical) from time to time is the proper officer for the following legislative provisions:

### **Public Health (Control of Disease) Act 1984**

- S.11 Cases of notifiable disease and food poisoning to be reported
- S.20 Stopping of work to prevent spread of disease
- S.21 Exclusion from school of child liable to convey notifiable disease
- S.22 List of day pupils at school having case of notifiable disease
- S.36 Medical examination of group of persons believed to comprise carrier of notifiable disease
- S.40 Medical examination of inmates of common lodging house
- S.42 Closure of common lodging house on account of notifiable disease
- S.43 Person dying in hospital with notifiable disease
- S.48 Removal of body to mortuary or for immediate burial
- S.59 Authentication of documents relating to matters within his province

### **National Assistance Act 1948**

- S.47(2) Removal to suitable premises of people in need of care and attention

### **National Assistance (Amendment) Act 1951**

- S.1 Certification of the need for immediate attention

## **Public Health (Control of Disease) Act 1984**

S.35	Justice's order requiring person to be medically examined
S.37	Justice's order requiring person with notifiable disease to be removed to hospital
S.38	Justice's order requiring detention in hospital of person with notifiable disease

To make application, on behalf of the Council under Section 1(1) of the National Assistance (Amendment) Act 1951

### **1.6 Heads of Service Delegated Powers**

#### **Head of Building Control and Engineering Services**

##### Highway and Related Matters

- Naming and renaming of streets, the renumbering of streets, and the renumbering of properties, subject in all cases to consultation with the appropriate Ward Member(s) and, in the case of renaming where an objection has been received in response to the statutory notice, to consideration of the objection and final determination by the portfolio holder.
- Numbering of properties.
- Provision of nameplates and direction signs.
- Arrangements for the making up and adoption of new streets subject to the guidelines and specifications set by the Highway Authority.
- Submission of responses to the Highway Authority in respect of consultations and advertisements for proposed Traffic Regulations Orders and responses to consultation on applications for tourism signage in consultation with the Head of Urban and Rural Services.

##### Building Regulation Matters

- Approval of plans submitted in accordance with the Building Regulations, rejection of those not in accordance with those Regulations and approval of applications for relaxation or dispensation from the Regulations.

- Collection of charges payable under the Building Regulations and the repayment of charges where refunds are due.
- Agreeing or challenging estimates submitted for calculating Building Regulation fees and charges.
- Revision of Building Regulation fees and charges to ensure full cost recovery of the service subject to consultation with the Head of Finance.
- Variation of individual charges from the prescribed scale of fees and charges, if required, subject to consultation with the Head of Finance.
- Taking action in respect of dangerous structures.
- Approval of temporary structures under the Public Health Acts and the Building Regulations and the renewal of such consents.
- Taking action when Building Regulations are contravened in consultation with the Head of Legal and Democratic Services where this involves legal proceedings to ensure that the Head of Legal and Democratic Services is satisfied as to the evidence.
- Service of Notice under the Building act 1984, authorising works of demolition.

#### Drainage Matters

- Service of notices relating to defective or blocked private drains, sewers and watercourses and the authorising of work in default of such notices
- Inspection, repairs, cleansing and maintenance of drains, sewers and similar services

#### **Head of Development Control and Major Developments**

##### General Planning Matters

- Determination of applications for planning permission, listed building consent, conservation area consent and advertisement consent.
- Determination of applications for Certificates of Lawfulness of an Existing Use or Development or a Proposed Use or Development subject to consultation with the Head of Legal and Democratic Services.
- Requiring an applicant to enter into a planning agreement, obligation or similar agreement with the Council, County Council or other statutory undertaker in respect of planning, highways, drainage or other matters where the Head of Development Control and Major Developments

intends to grant permission for an application determined under delegated powers.

- Determination of all application registration and administration matters.

Subject to the qualifications reserving powers to the Planning Committee as follows:

Delegated powers will not be exercised if the application (or case) is for 10 or more dwellings or the area of the site is greater than 0.5 hectares, or if the floorspace created is 5000 square metres or more, or the area on which the site is to be developed is more than one hectare.

Delegated powers will not be exercised if the recommendation for approval is contrary to planning policy, if the application (or case) is by, or relates to the Council (other than minor applications) or affects Council owned land, if there is any potential conflict of interest affecting a Council employee or their partner or spouse or if the application (or case) involves a proposed variation or discharge of a section 106 legal agreement.

Delegated powers will not be exercised in relation to consultation responses on County Matter cases for winning and working of materials or the use of land for mineral working deposits, or waste development.

Delegated powers will not be exercised if a Member representing the ward in which the application site is situated has, within 21 days of publication, requested in writing, with relevant planning reasons (e.g. an application generating significant local concern, or where the material considerations are finely balanced or where the site has a planning history that makes it appropriate for consideration by committee), that the application be referred to Planning Committee. Such requests shall be accepted on the advice of the committee chairman, or in his absence the vice-chairman. If the matter is referred to committee the ward member must attend that planning committee or send another nominated member to speak.

All delegated powers will be exercised on the basis of taking into account all material planning considerations, including any written planning objections or representations, in accordance with planning legislation, regulations and procedures and will be exercised at the expiry of the relevant consultation period.

The Head of Development Control and Major Developments shall determine what matters are “minor” for the purposes of exercising these delegated powers.

The Head of Development Control and Major Development shall report details of all applications determined by him under his delegated powers.

Planning Enforcement

All delegated enforcement powers in this section shall be exercised in consultation with the Head of Legal and Democratic Services.

Any legal proceedings are subject to the Head of Legal and Democratic Services being satisfied as to the evidence.

- Authorising the issue and service of any Requisition for Information and to institute and continue to final judgement legal proceedings where appropriate for failure to reply, or for inadequate replies.
- Authorising in writing those officers, or agents or consultants acting on behalf of the Council, who may exercise statutory powers of entry under the Planning Acts.
- Authorising and serving any notice of entry and to authorise application for any warrant to enter land.
- Authorising the taking of enforcement action including stop notices and temporary stop notices and authorising the instituting and continuing to final judgement of legal proceedings for non-compliance with enforcement action, if necessary.
- Authorising the issue and service of breach of condition notices and to institute and continue to final judgement any legal proceedings for non-compliance, if necessary.
- Authorising the issue and service of any planning contravention notices, and dealing with all other matters in connection with such notices including instituting and continuing to final judgement any legal proceedings for non-compliance with such notices.
- Authorising the taking of prosecution proceedings for the unauthorised display of advertisements and the serving of discontinuance notices relating to breaches of Advertisement Regulations.
- Authorising the service of a building preservation notice in cases of urgency.
- Authorising the instituting and continuing to final judgement of any legal proceedings where there is a breach of a planning agreement/ obligation entered into with the Council in a case where the Head of Development Control and Major Developments has granted permission for an application under delegated powers.
- Seeking an injunction to restrain breaches of planning control including breaches of planning and related agreements.
- Authorising the issue and service of enforcement notices, stop notices and temporary stop notices in cases of urgency and, if necessary,



authorising the instituting and continuing to final judgement of legal proceedings for non-compliance with such notices.

- To take such enforcement action as is necessary where work is being undertaken on trees in a Conservation Area.

#### Planning Prior Approvals

- Determination of applications as to whether prior approval is required for:
  - method of demolition of building and any proposed restoration of a site
  - siting and appearance of telecommunications development
  - siting, design and external appearance of an agricultural or forestry buildings, the siting and means of construction of a private way for agriculture or forestry agricultural/forestry permitted development.

#### Trees, Hedgerows and Paths

- Determination of all applications for felling, topping, lopping or uprooting of tree(s) subject to a Tree Preservation Order.
- Authorising Tree Preservation Orders subject to consultation with the Head of Urban and Rural Services.
- Registration, administration and determination of notifications under the Hedgerow Regulations subject to consultation with the Head of Urban and Rural Services on whether or not a hedgerow retention notice should be issued.
- Approving applications for the making of a Public Path Order resulting from a planning application and approving confirmation where no objections are made within the statutory period.

#### Other Planning Matters

- Siting of post boxes and telephone kiosks.
- Consultation and response to applications to remove public call boxes subject to consultation with the Portfolio Holder.
- Setting and enforcement of frontage and improvement lines.
- Making Directions to restrict permitted development subject to consultation with the Head of Legal and Democratic Services and the Portfolio Holder.

- Responding to consultations on applications which would be delegated to the Head of Development Control and Major Developments if the Council was the determining authority.
- Determination of applications for hazardous substances consent including the variation or removal of conditions imposed upon a hazardous substance (or deemed) consent.
- Making observations and objections to applications for licences for Goods Vehicle Operating Centres and related matters.
- Determination of requests for an opinion, including screening and scoping opinions and directions to determine whether enforcement is required and to undertake all functions under Environmental Impact Assessment Regulations.
- Issuing directions requesting further details on outline applications.
- Consideration and determination of acceptance or otherwise of minor variations of conditions, minor amendments to approved plans and minor variations of materials and other matters following the granting of planning permission or other consents.
- Consideration and determination of acceptance or otherwise of minor variations (not heads of terms) of planning agreements or obligations, subject to consultation with the Head of Legal and Democratic Services, the Ward Member and the Chairman (or in his/her absence) the Vice-Chairman of the Planning Committee.
- Determination of whether or not to grant an extension to the statutory consultation period on applications.
- Determination as to whether or not planning permission is required for any proposed development.
- Deciding whether to reconsult on revised plans received whilst an application is under consideration.
- Declining to determine repetitive applications for planning permission.
- Deciding the extent of non-statutory neighbour or general public consultation and advertisement on applications and other planning matters.
- Authorising the acquisition of open space land in planning agreements subject to consultation with the Head of Urban and Rural Services on the required standards for adoption.
- Responding to consultations on proposals for the erection or modification of overhead power lines and ancillary equipment.

## **Head of Economic Development and Estates**

- Day to day estates management of the Council's investment portfolio of land and buildings including lease renewals, surrenders, assignments and rent reviews.
- Agreements to the grant or acquisition of easements and wayleaves to an unlimited value subject to consultation with the portfolio holder.
- Agreements to the grant or acquisition of leases and licences up to a value of £100,000 per annum.
- Agreements to purchases and sales of land up to a consideration of £250,000 subject to consultation with the portfolio holder.
- Variation or release of restrictive covenants up to a value of £250,000 subject to consultation with the portfolio holder.
- Settlement of compensation claims submitted on behalf of or received by the Council relating to the use of statutory powers to acquire an interest in land.
- Submitting and settling appeals on rating assessments.
- Agreement not to exercise right of pre-emption reserved in the sale of Council property in consultation with the portfolio holder.
- Service of Notices relating to additional shared ownership shares.

## **Head of Environmental Services**

All matters relating to:

- Abandoned vehicles.
- Cleansing of streets.
- Statutory notices on provision of dustbins.
- Removal of obnoxious matter.
- Disposal of the dead in the absence of next of kin.
- Discharge of agency powers under Sections 132 and 149 of the Highways Act 1980, for the removal of unauthorised signs or marks on the highway.

- Abandoned shopping trolleys including notices under Section 2(a) of Schedule 4 of the Environmental Protection Act 1990 and implementation of Section 99 and Schedule 4 of the Environmental Protection Act 1990.
- Taking action under the Clean Neighbourhoods and Environment Act 2005, where necessary in consultation with the Head of Legal and Democratic Services who must be satisfied as to the evidence if legal proceedings are to be taken.
- Investigating and prosecuting offences under the Environmental Protection Act 1990 subject to the Head of Legal and Democratic Services being satisfied as to the evidence.
- Acquisition, management, hire, disposal of vehicles, plant, equipment, subject to Council's Financial and Contract Rules of Procedure.
- To compile and maintain register of contaminated land, pursuant to Section 143 of the Environmental Protection Act 1990.
- Control of pests and vermin.
- All matters in relation to the Road Traffic (Vehicle Emissions) ( Fixed Penalty) ( England) Regulations 2002 ( relates to emissions of smoke, vapour, gasses, oily substances and air quality).

#### **Head of Exchequer Services**

- Proceedings for recovery of Rate and Council Tax arrears.
- Completion notices relating to rating of unoccupied property.
- Refunds of rates for a maximum period of six years on commercial industrial premises where clerical or arithmetical error has been made on rateable value subject to consultation with the Head of Finance.
- Agreements to alter the Valuation List.
- Making proposals for the alteration of the Valuation List and inclusion of particular properties on the Valuation list.
- Serving notice on the Valuation Office of objection to any proposals for alteration of the Valuation list.
- The arrangement of all necessary insurances.
- The approval of the level of court costs in proceedings for recovery of debts including the recovering of rate arrears.

- The determination of eligibility for discretionary rate relief under Section 47 of the Local Government Finance Act 1988 and the category under which a property is deemed eligible.
- The determination of eligibility for mandatory rate relief under Section 43 or Section 45 of the Local Government Finance Act 1988 and the category under which a property is deemed eligible.
- Rating (Disabled Persons) Act 1978 section 2 – granting of rebates to institutions.
- Determination of the due date for Council Tax.
- Determination of the due date for business rates for business ratepayers paying by instalments.
- Management of the collection of Council Tax and Business Rates.
- Administration and management of the housing benefit scheme and the determination of all matters arising in respect of the claims of applicants subject to any appeals procedures to which applicants may be entitled.
- Administration of Council Tax which includes the power to write off up to £5,000 arrears of council tax for any one individual property.
- Authority to write off up to £5,000 on business rates.
- Application of the Council's Benefits prosecution policy.
- Granting of hardship relief, equivalent to the level of discretionary charity relief, to those organisations qualifying for discretionary charity relief where those organisations occupy newly erected property and are unable to submit an application for discretionary charity relief in time for the Council to decide to grant such relief from the dates of occupation of such property.
- Making of appropriate determinations under the Village Shop Rate Relief Scheme.
- Award of discretionary housing payments up to £5,000.
- Agreement as to reduction in rateable value.

### **Head of Finance**

- The recovery of arrears or debts not involving Court action.
- Investment of all surplus Council funds in accordance with the Council's annual Treasury Management Policy.

- The writing off of bad debts where debtor is bankrupt, insolvent or has ceased to trade.
- The writing off of any bad debts up to a maximum of £5,000.
- Authority to write off up to £10,000 arrears of Council tax or business rates. Any write off above that limit must be an individual portfolio holder decision.
- Authority to write off up to £10,000 of Housing or Council Tax benefits.
- Declaration of the local average interest rate in accordance with Section 438 and Schedule 16 of the Housing Act 1985 and implementation of any changes arising.
- Accounting for the collection of all sums due, including those collected on behalf of other bodies, and the disbursement of such sums to the bodies concerned.

### **Head of Housing Services**

- Negotiating and acting on behalf of the Council in any residual matters following completion of the LSVT process in accordance with Council policy, subject to decisions of principle being agreed in consultation with the appropriate Portfolio Holder.
- Adaptations or alterations of houses for the physically disabled.
- Determining homelessness applications, and implementation of the review procedure in respect thereof.
- Approval of renovation of common parts, disabled facilities, Houses in Multiple Occupation and minor works grants and the exercise of any discretion in respect thereof, subject to any requirements of the Council's policy in respect thereof.
- Service of statutory notices where required in cases of urgency.
- Exercise of all powers under the Housing Act 2004
- Authorisation in writing those officers, or agents, or consultants acting on behalf of the Council who may exercise statutory powers of entry under the Housing Acts.
- Authorisation in writing those officers, or agents or consultants acting on behalf of the Council who may exercise statutory powers to require the production of documents.
- Admission of applicants to the Housing Register.

- Allocation of Council houses to applicants on the Housing Register, or the nomination of such applicants to registered social landlords in accordance with the priority given by the allocations scheme approved by the Council.
- Granting, in exceptional cases, of housing advances not in accordance with the approved schemes, subject to consultation with the Portfolio Holder.
- Consultation with tenants concerning proposed variations in the conditions of tenancy, subject to consultation with the Portfolio Holder.
- Service of Notices of Intention to Seek Possession or Notices to Quit in respect of failure to pay rent, and/or any other breach of tenancy agreement, service to be in accordance with approved procedure.
- Institution and continuance of County Court proceedings for rent arrears or possession based upon rent arrears, and/or any other breach of tenancy agreement, after the expiry of a notice to quit and the continuance thereof to include all steps necessary in the proceedings including the obtaining of judgement and any steps necessary to enforce the judgement including the obtaining of a warrant of possession and the execution thereof subject to the Head of Legal and Democratic Services being satisfied as to the evidence.
- Authorisation of legal proceedings for offences under the Rent Act, the Landlord and Tenant Act, the Protection from Eviction Act and the Housing Acts subject to the Head of Legal and Democratic Services being satisfied as to the evidence.
- Granting of housing advances in accordance with the approved scheme and ancillary matters, including the arrangements for the discharge of mortgages.
- Exchanges of tenancies and the sub-letting of houses.
- Operation of the procedures for Access to Personal Files under the Access to Personal Files (Housing Regulations), 1989.
- Employment of tracing agents (if deemed to be prudent and necessary) to attempt to locate former tenants with outstanding rent arrears.
- Reimbursement to tenants leaving Council houses of the cost of improvements carried out by them.
- Service of statutory notices on insufficient or defective toilet accommodation.

## **Head of Human Resources**

- The implementation of national and local agreements to be made in consultation with the Head of Finance in relation to wages and salaries.
- Progression of Officers through career-graded posts.
- Recruitment and retention procedures.
- Administration of Council's car provision and assisted car purchase scheme in consultation with the Head of Finance.
- Approval of extensions of sick pay at full or half pay as provided for in the National Conditions of Service.
- Agreement and refusal of applications for regrading of posts.
- Developing and implementing a corporate skills and development training programme.
- Issue of pensions protection certificates under Regulation 23 of the Local Government Pensions Scheme Regulations 1997 in consultation with the Head of Finance (no longer available from 1/4/08 but updates on previously issued ones may be requested).
- Setting aside the policy on recruitment of qualified staff where appropriate professional qualification is not readily accessible.
- Application and monitoring of the Council's Corporate Equalities Plan in relation to employment and workforce matters.
- The reaching of compromise agreements with employees on matters of dispute relating to their employment in consultation with the Head of Legal and Democratic Services and in consultation with the Head of Finance on the amount of the settlement.
- Recovery of all sums due to the Council at the end of employment with exception of those subject to credit agreement.
- Agreement to changes to establishment posts provided all changes can be contained within existing budgets.
- Dismissal of staff below Chief Officer in accordance with the Council's procedures.

### **Head of Legal and Democratic Services**

**The Council has designated this post Monitoring Officer under the Local Government and Housing Act 1989. Responsible for ensuring the Council acts lawfully. Responsible for the Council's Code of Conduct and advising the Council's Standards Committee on any potential breaches. There is more detail on the responsibilities of the Monitoring**



## **Officer in the introduction to this constitution and in the Financial Regulations.**

- Institution and defence of any legal proceedings in the name of the Council including all steps necessary to pursue or defend such legal proceedings.
- The instruction of Counsel or other external legal advisers within budget.
- Setting and reviewing charges for the supply of Council held information under the Freedom of Information Act 2000.
- The signing of certificates under the Local Government (Contracts) Act 1997.
- The setting of fees for the supply of background papers pursuant to the Local Government (Access to Information) Act 1985 as an exemption to the standard fee prescribed from time to time.
- Setting of procedures for compliance with the Data Protection Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
- In consultation with the Head of Development Control and Major Developments to determine whether the charge for payment of all or part of the Council's legal costs for the preparation of section 106 agreements should be waived.
- Making of Orders granting Parish Meetings specific Parish Council powers.
- Making of temporary appointments to Parish Councils.
- Determination of ad hoc and permanent amendment to the list of "approved duties" as set out in the Members' Allowances Scheme.
- Making of Orders under Section 39(4) of the Representation of the People Act 1983 removing difficulties arising in respect of the election of Parish Councillors or the holding of a first meeting after an ordinary election, or where a Parish Council is not properly constituted.
- Administration of Local Land Charges function.
- To authorise attendance by a Member at a national conference or seminar.
- After a sub committee hearing to accept or reject any proposals from the applicant in consultation with The Chairman of the relevant subcommittee.

- Where there is any confusion or doubt to determine which committee a matter shall be considered by.
- Authorising amendments to the constitution where required by statutory changes or administrative error.

### **Head of Planning and Affordable Housing Policy**

- Submission of representations to the Highway Authority on traffic management proposals affecting the district.
- Approval of Conservation Area Appraisals and associated management plans in consultation with the Portfolio Holder.
- Provision of revisions to the Local List of Buildings of Architectural or Historic Interest and public consultation on such revisions subject to consultation with the Portfolio Holder.
- Making any nonsubstantive updates and corrections necessary to facilitate final publication of any policy documents following Executive approval.

### **Head of Recreation and Health**

- To authorise free use, or use on special terms, of any directly managed Council leisure facility and negotiate with the Council's contractor for free use or on special terms of leisure facilities managed for the Council subject to any compensation payable to the Council's contractor or any financial implications being contained within existing budgets.
- The use of recreation and sports facilities directly managed by the Council for special functions.
- Setting dates and hours of opening of directly managed recreation facilities and agreeing dates and hours within the terms of the contract with the Council's contractor.
- The letting of rooms and meeting halls in directly managed leisure facilities.
- The management of concerts, entertainments, promotions, activities and events organised and facilitated by Recreation and Health.
- Management of all Council leisure facilities and those managed under contract in accordance with agreed Council policy.
- To prepare and submit bids for National Lottery awards and other awards that may be available.
- The management of all Council community facilities.

- Providing the calculations and justification for the amount required for future maintenance of recreational spaces and facilities under planning agreements subject to consultation with the Head of Finance and the Head of Development Control and Major Development.
- The determination of applications for grants to parish councils subject to consultation with the Head of Urban and Rural Services.

### **Head of Safer Communities and Community Development**

- The administration of the Council's Concessionary Fare and Travel Token Scheme.
- Implementation of powers under the Crime and Disorder Act 1998 (including applications for Anti Social Behaviour Orders in consultation with the Head of Legal and Democratic Services who must be satisfied as to the evidence).
- Taking action under the Shops Act 1950, the Health and Safety at Work etc Act 1974, the Public Health (Control of Diseases) Act 1984, the Food Safety Act 1990, the Environmental Protection Act 1990, the Sunday Trading Act 1994, the Anti Social Behaviour Act 2003, the Food Hygiene (England) Regulations 2006 and Official Feed and Food Controls (England) Regulations 2007, and any subsequent relevant legislation falling within the service area, where necessary in consultation with the Head of Legal and Democratic Services.
- Issuing of certificates that any measures required by statutory notice to remove any danger to public health have been carried out satisfactorily.
- The making of grants in accordance with the policy agreed by the Executive in consultation with the portfolio holder and where the grant is for a parish council the determination shall be in consultation with the Head of Urban and Rural Services.
- Service of abatement notices.
- The approval of chimney heights, flues, furnaces etc under the Clean Air Acts.
- Setting of fees for the supply of information under the Environment and Safety Information Act 1988.
- Service of notices under section 165 of the Highways Act 1980 to remove a danger to users of the highway.
- Service of notices under sections 80 and 85 of the Water Industry Act 1991.

- Giving of prior consent under the Control of Pollution Act 1974 for construction sites and taking action under section 60.
- Service of Notices under section 80 of the Environmental Protection Act 1990 to secure the abatement of a noise nuisance.
- Granting of authority to Inspectors appointed under the Health and Safety at Work Act 1974 to authorise other persons to accompany them on inspections.
- All functions relating to Health and Safety under any relevant statutory provision within the meaning of the Health and Safety at Work Act 1974 to the extent that those functions are discharged otherwise than in the Council's capacity as employer.
- Agreeing and adopting the Council's Food Safety Enforcement Policy and Health and Safety Law Enforcement Service Plan in consultation with the portfolio holder.
- Statutory notices on insufficient or defective toilet accommodation.
- All functions under Part 8 of the Anti-Social Behaviour Act 2003 (relating to high hedges).
- Enforcement of smokefree legislation under the Health Act 2006 and the Smokefree (Premises and Enforcement) Regulations 2006 and 2007.
- Burial grants to assist with cost of burials where there are no relatives who will fund the cost.
- All matters in relation to the Motor Salvage Operators' Regulations 2002 (dealing with powers to regulate the motor salvage industry).
- All matters relating to caravan sites (other than planning matters).
- Issuing licences/registrations/certificates/approvals or taking any other necessary action under the following statutes and any subsequent amendments or updating of these statutes:
  1. Animal Boarding Establishments Act 1963
  2. Breeding of Dogs Act 1973
  3. Caravan Sites and Control of Development Act 1960
  4. Dangerous Wild Animals Act 1976
  5. Local Government (Miscellaneous) Provisions Act 1982 (covers skin piercing activities)

6. Local Government Act 2003 (covers cosmetic body piercing)
7. Pet Animals Act 1951
8. Riding Establishments Act 1964 and 1970
9. Scrap Metal Dealers Act 1964
10. Zoo Licensing Act 1981
11. Motor salvage operators

### **Head of Urban and Rural Services**

- The use of parks, open spaces and recreational areas for special functions.
- The planting and maintenance of trees on Council-owned land or Council-controlled land.
- The provision of advice relating to trees and recommending to the Head of Development Control and Major Developments the making of Tree Preservation Orders including in an emergency.
- Dealing with applications for works to trees in Conservation Areas.
- Approving the standards for adoption of open space land in planning agreements.
- Authorising the temporary use of off street parking areas for uses other than parking.
- Authorising the siting of market stall spaces and the letting of such spaces subject to the necessary planning and highway consents.
- Managing the maintenance of monuments and public clocks in the Council's ownership.
- The issuing of parking permits and season tickets for off street parking and for residents parking schemes and Exemption Certificates for pedestrianised areas.
- The provision of street furniture on land other than recreational land.
- The making of temporary traffic orders under section 21 of the Town Police Clauses Act 1847 relating to special events on the highway and the power to waive charges for the making of such orders in exceptional circumstances.
- The enforcement of parking and other stationary traffic offences.

- The licensing of hackney carriages and drivers and private hire cars, proprietors and drivers subject to applicant's right of appeal to a subcommittee of the Licensing Committee.
- Granting, variation, review or refusal of all licences, certificates or permissions under the Gambling Act 2005 subject to it being considered by a Licensing Subcommittee where a valid representation or objection is made and not withdrawn.
- Determining whether a complaint or representation under the Gambling Act 2005 is irrelevant, frivolous or vexatious.
- Street and house to house collections.
- Street trading, under section 3 and schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- Granting of approval to third parties to place objects over or on the public highway, under section 115 of the Highways Act 1980.
- Granting, variation, review or refusal of all licences, certificates or permissions under the Licensing Act 2003 subject to it being considered by a Licensing Subcommittee where a valid representation or objection is made and not withdrawn.
- Determining whether a complaint or representation under the Licensing Act 2003 is irrelevant, frivolous or vexatious.
- Approval of applications for the making of Public Path Orders (which are not the result of the consideration of a planning application) and to approve the confirmation of Orders where no objections are lodged, or, if lodged, are withdrawn within the statutory period.