

## **Part 3.1 - Responsibilities for Functions**

### **1 Introduction**

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, specify which functions are:

### **2 Council Functions**

These cannot be the responsibility of the Leader and the Cabinet e.g. the Council's Policy Framework and Budget, and such local choice functions as are allocated to Full Council. These are set out in [Article 4, Part 2](#) of this Constitution.

### **3 Local Choice Functions**

Those functions which the Council may delegate to the Leader and Cabinet or to the Council.

### **4 Executive Functions**

All other functions save the above are executive functions. Decisions on these functions will be taken by the Leader unless they are delegated in accordance with this constitution or dealt with under joint arrangements.

Article 6 provides that the Leader may delegate responsibility for executive functions to the Cabinet, Committees, individual Cabinet members, a joint Committee with another local authority, executive of another local authority or officers.

### **5 The Local Choice Functions**

Local authorities are required to ensure that all 'local choice functions' are allocated so that it is clear whether:

- a) They are the responsibility of the Council and/or its Committees, or
- b) They are the responsibility of the Cabinet, or
- c) They are, or are not, the responsibility of the Cabinet to a specified extent.
- d) The table below sets out that these functions will be the responsibility of the bodies set out in column two. In turn the decision-making body may delegate to the person or body specified in column three.

| Function  | Responsibility  | Delegation of Function   |
|---|---|--|
| 1. Any function under a Local Act other than a function specified or referred to in Regulation 2 of Schedule 1 of SI 2000 No 2853 as amended. | Cabinet   | Corporate Heads of Service within their areas of responsibility as defined within the Officer Scheme of Delegation |
| 2. The determination of an appeal against any decision made by or on behalf of the authority.   | Cabinet except Housing (Appeals) Committee <b>(see Article 8)</b> | Unless there is a specific delegation to Committee   |
| 3. Any function relating to contaminated land.  | Cabinet   | The Strategic Director (Services)  |
| 4. The discharge of any function relating to control of pollution or management of air quality.   | Cabinet   | The Strategic Director (Services)  |
| 5. The service of an abatement notice in respect of a statutory nuisance.   | Cabinet   | The Strategic Director (Services)  |
| 6. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area              | Cabinet   | None   |
| 7. The inspection of the authority's area to detect any statutory nuisance.   | Cabinet   | Corporate Head of Regulatory Services  |
| 8. The investigation of any complaint as to the existence of a statutory nuisance.  | Cabinet   | Corporate Head of Regulatory Services  |
| 9. The obtaining of information under Section 330 of the Town and   | Cabinet or Planning Committee                                     | Corporate Head of Regulatory and   |

|     |   |                               |                            |
|-----|---|-------------------------------|----------------------------|
|     | Country Planning Act 1990<br>(i) as to interests in land  |                               | Corporate Head of Services |
| 10. | The obtaining of particulars of persons interested in land under Section 16 of the Local Government Act (Miscellaneous Provisions) Act 1976   | Cabinet or Planning Committee | All Strategic Directors    |
| 11. | The appointment of any individual:<br><br>(a) to any office rather than an office in which they are employed by the Authority<br><br>(b) to anybody other than the Authority or a Joint Committee of two or more authorities; or<br><br>(c) To any Committee or Sub-Committee of such a body and the revocation of any such appointment | Cabinet                       | Chief Executive            |
| 12. | The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities   | Cabinet                       | Chief Executive            |

## **Part 3.2 - The Cabinet, its Committees and the Cabinet Member Structure**

- 1** Executive functions will be performed by the Cabinet. These functions will be grouped together in the form of areas of responsibility. The number and scope of which will be determined by the Leader.
- 2** The Leader will also allocate responsibility for the areas of responsibility among the individual Cabinet Members on an annual basis and shall have the ability to amend these in year as required. The Leader has allocated an area of responsibility to each Cabinet Member and allocated to each Cabinet Member responsibility for the discharge of functions set out below.
- 3** The Leader may exercise any of the functions delegated to individual Cabinet Member.
- 4** The Leader may delegate other functions not expressly set out herein to individual Cabinet Members provided they are the executive functions and provided due to notice of the exact terms of the delegation and the name of the Cabinet Member is lodged with the Monitoring Officer.

### **5 Cabinet**

- 5.1** The Cabinet will be collectively responsible for executive functions which are not otherwise delegated by the Leader.
- 5.2** Set out below are the responsibility for executive functions to be exercised by Cabinet Committees or Joint Committees. These responsibilities are set out in the detailed Terms of Reference.
- 5.3** Where the Terms of Reference of Cabinet Committees or Joint Committees overlap with the Cabinet Member's general powers of delegation, the executive decision is to be taken by the Cabinet Committee or Joint Committee.
- 5.4** Therefore the Cabinet Member's general powers of delegation are to be subject to, and subservient to, the Cabinet Committees and Joint Committees' specific Terms of Reference.

Set out below also are responsibility for executive functions to be exercised by the Leader and Cabinet Members. The Leader or the Cabinet Member may refer the exercise of an executive function within an area of responsibility for a decision by the Cabinet.

### **6 Cabinet Advice on Council Functions**

- 6.1** The Cabinet has the following role in advising the Council on the following matters;

- a) The making of Council Procedure Rules in accordance with Section 106 and para 42 Schedule 12 of the Local Government Act 1972.
- b) The making of Contract Procedure Rules in accordance with Section 135 of the Local Government Act 1972.
- c) The preparation and adoption of local development documents which are development plan documents, and matters concerning the establishment, functions and dissolution of a joint Committee under Sections 29, 30 and 31 of the Planning Compulsory Purchase Act 2004.

## **7 Cabinet Committees**

- 7.1 The Cabinet can establish Cabinet Committees with specific terms of reference. Subject to any alterations within the discretion of the Leader these Committees will exercise executive functions within their terms of reference. They may delegate further to a Sub-Committee, an Area Committee (if any) via joint arrangements or to an officer.
- 7.2 The Cabinet has currently established three Cabinet Committees: Cabinet Committee Housing, Cabinet Committee Regeneration and Cabinet Committee Local plan.
- 7.3 The Monitoring Officer has the discretion to determine which of the Overview and Scrutiny Committees or Cabinet Committees are appropriate for pre-scrutiny and decision-making purposes.
- 7.4 Deputies for the Cabinet Committees will be appointed at the Chairperson's discretion.
- 7.5 In the absence of the relevant Cabinet Member, any Cabinet Member can act as Chairperson for Meetings of Cabinet to include Cabinet Member Decision Days.

## **8 Cabinet Committee: Regeneration**

### **8.1 Membership**

- a) The Committee's membership will be the Leader and Cabinet Member for Regeneration (Chairperson), plus 3 other Cabinet members (4 voting members).
- b) In the event of any member of Cabinet not being available for a meeting of the Cabinet Committee another member of Cabinet may deputise where no conflict arises.
- c) In addition, 4 other members will be invited to attend and offer views at meetings of the Committee (4 non-voting members).

## 8.2 Delegated Matters

- a) To oversee the Regeneration projects of the Council and to ensure that the objectives established by Cabinet are met, and in particular:
  - (i) to exercise those financial management and procurement powers of Cabinet set out below in respect of the major regeneration projects;
  - (ii) to agree the Project Plan and monitor progress of the project against that Plan including key milestones;
  - (iii) to agree progression to the next stages of design as set out in the Project Plan;
  - (iv) to ensure effective actions are in place to address key risks;
  - (v) to consider and agree methods of consultation and engagement;
  - (vi) to consider and agree a communication strategy;
  - (vii) to approve, where applicable, the Outline, Strategic and Full Business Cases;
- b) To exercise the powers of Cabinet under the Financial Procedure Rules in respect of each regeneration project.
- c) To exercise the following powers of Cabinet under the Contract Procedure Rules in relation to the procurement of contracts for works, goods, software or services in connection with the Project:-
  - (i) approval of price/quality evaluation criteria;
  - (ii) approval of short-listing procedures, short-list selection and approved lists of contractors, including the authorisation of any departures from Contract Procedure Rules;
  - (iii) award of Contract.
- d) To consider and approve the submission of any planning applications to the council as Local Planning Authority to take forward the Project.
- e) To agree any land disposals (including, sales, leases and grants of easements) at best consideration or where the undervalue does not exceed £100,000, to take forward the Project.
- f) To agree any land acquisitions (including acquisitions of freehold/leasehold land, and easements) to take the Project forward, within the budget allowed for the Project.

### 8.3 Referred Matters

To advise Cabinet on:

- a) Any proposals in which the limitations set out above in the Delegated Matters would be exceeded or where risks are considered needed to be raised with Cabinet.

To advise Cabinet and Council on:

- b) Approval of a capital or revenue virement or supplementary capital or revenue estimate over £250,000.
- c) Any other matter as considered appropriate by the Cabinet Committee

The quorum is 2 voting members.

## 9 Cabinet Committee: Housing

### 9.1 Membership

- a) The Committee's membership will be the Cabinet Member for Community and Housing (Chairperson), plus 2 other Cabinet members (3 voting members).
- b) In the event of any member of Cabinet not being available for a meeting of the Cabinet Committee another member of Cabinet may deputise where no conflict arises.
- c) In addition, it is proposed that the following be invited to attend and offer views at meetings of the Committee (non-voting):
  - (i) Four other members: and
  - (ii) Two TACT representatives plus one deputy

### 9.2 Terms of Reference

- a) To exercise the executive functions set out below in relation to the Housing Revenue Account and Strategic Housing Services.
- b) To oversee the Council's Housing revenue account business plan including the agreed affordable housing development programme and to ensure the programme achieves appropriate levels of quality and quantity of housing within the policy and budget framework approved by Council.
- c) To monitor and oversee the Council's Housing and Homelessness strategies and the delivery of associated action plans.

### 9.3 Referred Matters

To advise Cabinet on:

- a) Approving the annual Business Plan for the wholly owned Housing Company.
- b) Any other shareholder agreement reserved matter decision.

### 9.4 Delegated Matters

- a) Approving or adopting the policy and budget framework contained in the Council Plan, the, Housing Strategy and Annual Housing Revenue Account budget and Business Plan.
- b) To advise on any changes required to the policy and budget framework to take account of new legislation.
- c) Whether to approve or modify the policy and budget framework for the Council's 10 year Housing Development Programme and the associated funding requirements from both the Housing Revenue Account and General Fund, which will be kept under regular review.
- d) Whether to make changes to the Housing Development policy and budget framework to take account of new legislation or changes to the Housing Revenue Account Business Plan.
- e) The operation and performance of wholly or partly Council owned companies/trading vehicles established to manage housing provision in the Winchester district.
- f) The detailed list of individual schemes within the Council's 10 year Housing Development Programme and to keep the Programme under regular review recommending the addition or deletion of schemes.
- g) Whether to approve or modify the Council's New Homes Development Strategy and Council House design requirements.
- h) The rental policy for properties provided under the Housing Development Programme.
- i) Housing programmes that contribute to the Council's Carbon Neutrality commitments.
- j) Any proposals in which the limitations set out below in the Delegated Matters would be exceeded.
- k) The implementation of approved policies and programmes in accordance with policy and budget framework approved by Cabinet and/or Council,



subject to such budgetary and other constraints that Cabinet and/or Council may impose.

- l) Housing Acts including the provision, allocation, improvement, repair, maintenance and management of dwellings and land.
- m) To agree and authorise any matters in relation to schemes within the 10 year Housing Development Programme which are in accordance with the policy and budget framework approved by Cabinet and/or Council, subject to such budgetary and other constraints set out below or that Cabinet and/or Council may impose.
- n) To agree changes to the timetable or scheduling of works within the approved 10 year Housing Development Programme or in cases of urgency substituting new schemes in place of schemes that will no longer come forward providing such schemes comply with the agreed Value for Money criteria for appraisals and the capital and revenue costs can be met within approved Housing Revenue Account or General Fund budgets, and within the Council's approved Prudential Indicators.
- o) Exercising the powers of Cabinet under the Financial Procedure Rules in respect of the Housing Revenue Account.
- p) Exercising the powers of Cabinet under the Contract Procedure Rules in relation to procurement contracts for works, goods, software or services up to a value of £2,000,000 or £200,000 per annum, whichever is the greater:
  - (i) Approval of price/quality evaluation criteria
  - (ii) Approval of short-listing procedures, short-list selection and approved lists of contractors, including the authorisation of any departures from Contract Procedure Rules;
  - (iii) Award of Contract;
  - (iv) Approval of schemes under Financial Procedure Rule 6.4 – authority to release expenditure for capital schemes;
  - (v) Approval of final cost for capital schemes under Financial Procedure Rule 7.4.
- q) To agree any land disposals at best consideration or where the undervalue does not exceed £100,000. To agree any disposals at less than best consideration where the undervalue does not exceed £250,000 provided the matter is not called-in for review by The Scrutiny Committee.
- r) To review and monitor the Council's performance and use of resources in the above areas, including but not restricted to the implementation of change plans, performance against national and local performance indicators, and identification of risks and action taken to mitigate those risks.

The quorum is 2 voting members.

## 10 Cabinet Committee: Local Plan

### 10.1 Membership

- a) The Committee's membership will be the Cabinet Member for Place and the Local Plan (Chairperson), plus 2 other Cabinet members (3 voting members).
- b) In the event of any member of Cabinet not being available for a meeting of the Cabinet Committee another member of Cabinet may deputise where no conflict arises.
- c) In addition, 5 members will be invited to attend and offer views at meetings of the Committee (5 non-voting members):

### 10.2 Terms of Reference

- a) To oversee the Council's development of the Local Plan and to ensure the programme to deliver the plan is timely and within the policy and budget framework approved by Council.
- b) To monitor and oversee the Council's Local Plan strategies and the delivery of associated documents relating to policy options, draft policies and evidence prepared to support the Local Plan.
- c) To exercise the executive functions set out below in relation to Strategic Planning Services and the Local Plan
- d) To make recommendations as required to Cabinet and Council.

### 10.3 Delegated Matters

- a) To oversee the development of the Local Plan of the Council and to ensure that the objectives established by Cabinet are met, and in particular:
  - (i) to exercise those financial management and procurement powers of Cabinet set out below in respect of the production of the Local Plan
  - (ii) to agree the Project Plan and monitor progress of the project against that Plan including key milestones;
  - (iii) to agree progression to the next stages of delivery as set out in the Project Plan;
  - (iv) to ensure effective actions are in place to address key risks;
  - (v) to consider and agree methods of consultation and engagement;
  - (vi) to review the Local Plan under development.
- b) To exercise the powers of Cabinet under the Financial Procedure Rules in respect of the production of technical reports and advice for the Local Plan

c) To exercise the following powers of Cabinet under the Contract Procedure Rules in relation to the procurement of contracts for works, goods, software or services in connection with the Project:-

- (i) approval of price/quality evaluation criteria;
- (ii) approval of short-listing procedures, short-list selection and approved lists of contractors, including the authorisation of any departures from Contract Procedure Rules;
- (iii) award of Contract.

#### 10.4 Referred Matters

To advise Cabinet on:

- a) Any proposals in which the limitations set out above in the Delegated Matters would be exceeded or where risks are considered necessary to be raised with Cabinet.

To advise Cabinet and Council on:

- a) Approval of a revenue virement or supplementary revenue estimate over £250,000.
- b) Any matters of policy that need to be brought to their attention.
- c) Any other matter as considered appropriate by the Cabinet Committee.

The quorum is 2 voting members.

Cabinet Members areas of responsibility are appointed by the Leader

### 11 General Powers Granted to Cabinet Members

11.1 The following responsibilities have been delegated to each individual Cabinet Member to exercise within their portfolio and service area:

- a) To exercise the Executive powers and duties of the Council for strategic development, policy direction, partnership working, executive powers including key decisions, programme and performance management, in accordance with the Council's procedure rules for their area of responsibility;
- b) To be responsible for ensuring the successful delivery of business transformation in relation to their areas of responsibility;
- c) To request the Overview & Scrutiny Committee review changes to policy and strategy within their areas of responsibility;
- d) To have oversight of budget planning and monitoring in their service area;

- e) To act as the Council's lead spokesperson on strategic bodies for their areas of responsibility;
- f) To determine priorities in conjunction with the relevant member of the Council's management team and other Cabinet Members (within the policy and budget framework);
- g) To make proposals for policy initiatives, within the policy and budget framework, and for the amendment of such framework subject to the agreement of the Cabinet and Council;
- h) To recommend to the Cabinet responses to reports from the Overview & Scrutiny and Audit and Governance Committees;
- i) To agree minor matters and non-material amendments to policy;
- j) To approve grant funding allocations to third parties within approved budgets for this purpose;
- k) To approve all in-year changes to fees and charges;
- l) The Cabinet Member for Community and Engagement has delegated authority to approve all community safety partnership strategies under the Crime and Disorder Act or other related legislation.

11.2 Decisions delegated to Cabinet Members may be taken at Cabinet Member Decision Days, as set out in the Cabinet Procedure Rules (Part 4.2 of the Council's Constitution) and in accordance with the Access to Information Procedure Rules

## **12 The Leader**

- 12.1 The Leader may delegate other functions not expressly set out herein to individual Cabinet Members provided they are executive functions and provided that due notice of the exact terms of the delegation and the name of the Executive Member is lodged with the Monitoring Officer.
- 12.2 Where the individual Cabinet Members general delegated authorities and the Cabinet Committee's specific Terms of Reference overlap then the executive decisions will be made by the Cabinet Committee unless the Leader determines otherwise.

## **Part 3.3 – The Regulatory Committees and Other Non-Executive Decision Making Committees**

Where any delegation under this part of the Constitution refers to specific legislation or regulations it includes a reference to that legislation or those regulations as re-enacted, consolidated, modified or amended.

### **1 Planning Committee**

#### **1.1 Terms of Reference**

All functions relating to Town and Country Planning and Development Management (excluding the preparation of plans and policies) as specified in Part A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended by subsequent regulations including:

- a) Planning applications
- b) Enforcement action
- c) Planning agreements
- d) Lawful use or development
- e) Advertisement control
- f) Listed buildings
- g) Conservation areas
- h) Footpaths and highways
- i) Waste matters
- j) Hazardous substances
- k) Trees and hedgerows

1.2 The consideration and determination of matters arising from Part 8 of the Anti-Social Behaviour Act 2003 relating to complaints about high hedges.

1.3 Making recommendations to Council, implement and keep under review a Scheme of Delegation of Functions to Officers in respect of any of the functions delegated to the Committee.

1.4 The Committee's general remit does not extend to those parts of the district within the South Downs National Park and/or where delegation arrangements have been made with the National Park Authority.

- 1.5 Certain applications within the West of Waterlooville Major Development Area are normally dealt with by the Joint West of Waterlooville MDA Planning Committee, as detailed in Appendix A to Section 5 below. Accordingly, save where an application is referred back to the Planning Committee in accordance with the Terms of Reference of the Joint West of Waterlooville MDA Planning Committee, such applications will usually be dealt with by the Joint Committee.
- 1.6 Membership and meeting arrangements
- a) The Committee, consisting of up to nine Members, will be appointed annually by the Council and will be politically balanced. There will also be up to two Deputy Members per group.
  - b) The Committee will meet in accordance with a schedule of ordinary meetings, although meetings may be cancelled due to lack of business, or additional meetings may be arranged as necessary, in consultation with the Chairperson of the Committee.
- 1.7 Delegation of Function
- a) The majority of the Committee's functions will be performed by officers, as set out in Part 3 of the Constitution. These delegations are subject to any such delegation being consistent with the Development Plan, the National Planning Policy Framework and any other applicable Government Guidance and Statutory and customary consultations being carried out.
- 1.8 Procedure at meetings
- a) Procedure at meetings shall be in accordance with the Council Meeting Procedure Rules, except as below:
    - i. The Committee shall agree a scheme of public speaking arrangements.
    - ii. The Committee shall have authority to depart from the arrangements above and determine specific arrangements for public speaking on certain applications, as it sees fit.
- 1.9 Joint West of Waterlooville Major Development Area (MDA) Planning Committee
- a) The Joint Committee is established by Havant Borough Council and Winchester City Council and is composed of Members from Winchester City Council and Havant Borough Council. The area within which the Joint Committee is to exercise its authority is the West of Waterlooville Major Development Area. The full constitution and terms of reference of the Joint Committee are set out in Section 5).

## **2 Licensing and Regulation Committee**

### **2.1 Terms of Reference**

**2.2** The Licensing and Regulation Committee (in this Section 2 referred to as “the Committee”) may undertake or sub-delegate the Council’s regulatory functions relating to licensing and registration including:

**a) The Licensing Act 2003;**

**b) The Gambling Act 2005;**

**c) The Town Police Clauses Act 1847 (as it relates to hackney carriage taxi licensing)**

**d) The Local Government (Miscellaneous Provisions) Act 1976 (as it relates to private hire licensing);**

**e) Health and safety at work (for non- Council officers);**

**f) Food premises;**

**g) Scrap metal;**

**h) Caravan Site Movable Dwelling and Camp Site Licensing**

**i) Licensing Performances of Hypnotism**

**j) Animal Welfare Licensing**

**The Committee will hear informal appeals against decisions to refuse applications, restrict licenses or impose conditions in excess of the standard licensing conditions.**

**k) Charities/Street Collection Permits/Street Trading Consents**

**The Committee will hear informal appeals against refusals of applications and revocation of consents relating to Street Trading Consents.**

**l) Certificates of Registration of Acupuncture, Tattooing, Electrolysis and Cosmetic Piercing**

**m) All functions and powers relating to Smoke Free Legislation**

**n) Public Spaces Protection Orders**

**The Committee will determine all applications to designate an area under Section 59 Anti Social Behaviour, Crime and Policing Act 2014 to include the variation and revocation of Orders**

o) Licences under Section 115(e) Highways Act 1980 (Tables and Chairs).

The Committee will hear informal appeals against refusal of applications.

p) The Setting of Relevant Fees and Charges

q) Local Choice Functions (as specified in Part 3 of the Constitution) unless the authority to determine the matter has been delegated to another Committee or an individual officer

The Committee may authorise a prosecution for any offence within the scope of its delegation.

2.3 Unless a matter is reserved for Committee or a Sub-Committee, under the paragraphs above, by law or by procedures in this Constitution, then the Strategic Director: Services is delegated to exercise all the licensing functions above.

2.4 Membership and meeting arrangements

a) The Committee shall consist of up to 11 Members (and up to 2 Deputy Members). It shall be appointed annually by the Council and shall be politically balanced.

2.5 Members appointed to the Committee will:

a) Be able to provide a sufficient, competent pool capable of carrying out the Committee's programme of work and anticipated number of Sub-Committee hearings for the forthcoming year;

b) Make themselves available to participate in the work of the Licensing Authority; and

c) Be required to undertake mandatory training on the functions and responsibilities of the Committee and its Sub-Committees.

2.6 Delegation of functions

2.7 The Committee's functions will be determined in line with Tables A, B, C and D of this part of the Constitution. The Committee or a Sub-Committee will consider:

a) Matters which the Council's policies dictate the Committee's involvement

b) Appeals being made against an officer's decision; and

c) Matters when an officer to whom a decision has been delegated chooses to put the matter before the Committee.



- 2.8 A Sub-Committee will consist of any three Members drawn from the full membership of the Committee and appointed for each occasion when it is needed. All Members of the Committee should be given equal opportunities to sit on Sub-Committees subject to any prejudicial interest, following successful completion of the relevant training.
- 2.9 Applications made in respect of the Licensing Act 2003 will be brought before the Committee or a Sub-Committee in accordance with any regulations published under the Act, the guidance issued under section 182 of the Act and summarised in Table A below.
- 2.10 Applications made in respect of the Gambling Act 2005 will be brought before the Committee or a Sub-Committee in accordance with the Scheme of Delegation summarised in Table B below.
- 2.11 Applications made in respect of sex establishments will be brought before the Committee or a Sub-Committee in accordance with the Schedule of Delegation summarised in Table C attached.
- 2.12 Taxi **and private hire** licensing-related matters reserved for the Licensing and Regulation Committee, or a Sub-Committee of that Committee, in the Council's Licensing Points Record Scheme will be brought before the Committee or a Sub-Committee. All other taxi or **private hire** licensing matters have been delegated to the **Service Lead: Public Protection**, acting in consultation with the Chairperson of the Licensing **and Regulation** Committee (see Table D).
- 2.13 Procedure at meetings
- a) Meetings of the Committee will be conducted in accordance with the Council Procedure Rules.
- 2.14 Licensing Sub-Committee
- a) To deal with applications under the Licensing Act 2003 allocated to the Licensing Sub-Committee in the following Tables A, B, C and D.
- b) To deal with applications under the Gambling Act 2005 allocated to the Licensing Sub-Committee in the following Tables A, B, C and D.

**TABLE A**

| <b>Matter to be dealt with</b>   | <b>Delegated to Licensing Sub Committee</b>         | <b>Delegated to Officers</b>  |
|--|---|---|
| <ul style="list-style-type: none"> <li>• Application for personal licence with unspent convictions</li> <li>• Application to review premises licence/club premises certificate</li> <li>• Decision to object when local authority is a consultee and not the lead authority</li> <li>• Determination of a Hampshire Constabulary or <b>Environmental Health</b> representation to a temporary event notice</li> </ul>  | All cases   |   |
| <ul style="list-style-type: none"> <li>• Application for personal licence</li> <li>• Application for premises licence/club premises certificate</li> <li>• Application for provisional Statement</li> <li>• Application to vary premises licence/club premises certificate</li> <li>• Application to vary designated premises supervisor</li> <li>• Application for transfer of premises licence</li> <li>• Applications for Interim Authorities</li> <li>• Determination of application for licence, or variation of licence, in respect of community premises: supervision of alcohol sales</li> </ul>   | If a relevant representation made and not withdrawn | <ul style="list-style-type: none"> <li>• If no relevant representation made or</li> <li>• If representation made and withdrawn</li> </ul> |
| <ul style="list-style-type: none"> <li>• Request to be removed as designated premises supervisor</li> <li>• Decision on whether a complaint is irrelevant, frivolous or vexatious</li> <li>• Determinations of application for minor variation</li> <li>• Determination of relevance of representation</li> <li>• Exercise of Responsible Authority Functions of applications and notices submitted to the licensing authority under the Licensing Act 2003 (as amended by the Police and Social Responsibility Act 2011) in accordance with the regulations</li> <li>• In cases where the Magistrates Court has determined the licence on appeal</li> </ul> |   | All cases   |

**TABLE B - Gambling Act 2005: Delegation of Functions**

| <b>GAMBLING ACT<br/>2005<br/>Summary of permitted licensing authority delegations</b>   |                                      |  |  |
|---|--------------------------------------|--|--|
| Matter to be dealt with   | Delegated to the Licensing Committee | Delegated to Sub Committee                                 | Delegated to Officers  |
| Approval to recommend to Council <ul style="list-style-type: none"> <li>• the <b>Statement of Principles</b> (including substantive amendments)</li> <li>• policy not to permit casinos</li> </ul>  | All cases                            |  |  |
| <ul style="list-style-type: none"> <li>• Cancellation of club gaming/club machine permits</li> <li>• Review of a premises licence</li> <li>• Decision to give a counter notice to a temporary use notice</li> </ul>   |                                      | All cases  |  |
| <ul style="list-style-type: none"> <li>• Application for premises licences</li> <li>• Application for a variation to a licence</li> <li>• Application for transfer of a licence</li> <li>• Application for a provisional statement</li> <li>• Application for club gaming/club machine permits</li> </ul> |                                      | If a relevant representation made and <b>not</b> withdrawn | <ul style="list-style-type: none"> <li>• If no relevant representation made <i>or</i></li> <li>• If representation made and withdrawn</li> </ul> |
| <ul style="list-style-type: none"> <li>• Fee Setting (when appropriate)</li> <li>• Applications for other permits</li> <li>• Cancellation of licensed premises gaming machine permits</li> <li>• Consideration of temporary use notice</li> </ul>   |                                      |  | All cases  |

**TABLE C - Sex Establishments: Schedule of Delegated Authority**

| <b>Matter to be dealt with</b>  | <b>Delegated to</b>  |
|---|--|
| <p>Grant (First or New) of an application for any type of Sex Establishment Licence</p>   | <p>The Sub-Committee*</p> <ul style="list-style-type: none"> <li>• if a relevant objection received and not withdrawn and/or</li> <li>• if officers have concerns in respect of the application or characteristics of the locality</li> </ul> <p>Officers in all other cases</p> |
| <p>Refusal of an application for the <i>grant, renewal or transfer</i> of any type of Sex Establishment Licence on the grounds that:</p> <ul style="list-style-type: none"> <li>• the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason</li> <li>• if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, reviewed or transfer of such a licence if they made the application themselves</li> </ul> <p>Refusal of an Application for <i>the grant or renewal</i> of any type of Sex Establishment Licence on the grounds that:</p> <ul style="list-style-type: none"> <li>• the number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality</li> <li>• the grant or renewal of the licence would be inappropriate, having regard to the character of the relevant locality; or to the use to which any premises in the vicinity are put; or to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made</li> </ul> <p>Refusal of an Application for the <i>variation</i> of the terms, conditions or restrictions on/or subject to which the licence is held for any type of Sex Establishment Licence</p> | <p>The Sub-Committee* in all cases</p>   |
| <ul style="list-style-type: none"> <li>• <i>Matters ordinarily delegated to a Sub-Committee may be referred to the Licensing and Regulation Committee at the discretion of the Service Lead:</i></li> </ul>   |  |

*Public Protection after consultation with the Chairperson and/or Vice-Chairperson of the Licensing and Regulation Committee*

|  |                              |
|--|------------------------------|
| <p>Decision on whether an objection is frivolous or vexatious<br/>                 Decision on whether an objection is relevant<br/>                 Refusal of an Application for <i>the grant</i> of any type of Sex Establishment Licence on the grounds that the Applicant is:</p> <ul style="list-style-type: none"> <li>• under the age of 18</li> <li>• for the time being disqualified from holding a licence following revocation of such a licence</li> <li>• a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of 6 months immediately preceding the date when the application was made</li> <li>• a body corporate which is not incorporated in an EEA state</li> <li>• a person who had, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is a like application.</li> </ul> | <p>Officers in all cases</p> |
|--|------------------------------|

*\*Although matters will normally be referred to a Sub-Committee for determination, they may be referred to the full Committee at the discretion of the Service Lead:  
 Public Protection, after consultation with the Chairperson and/or Vice-Chairperson*

**TABLE D**

| <b>TOWN POLICE CLAUSES ACT 1847<br/>&amp; LOCAL GOVERNMENT (MISCELLANEOUS<br/>PROVISIONS) ACT 1976</b><br><b>Summary of permitted licensing authority delegations</b>   |  |  |
|---|--|--|
| Matter to be dealt with   | Delegated to the<br>Licensing and<br>Regulation<br>Committee | Delegated to the<br>Sub Committee                            |
| <ul style="list-style-type: none"> <li>• Approve 'standard' conditions of licence</li> <li>• Approval to recommend to Cabinet or <b>Cabinet Member</b> <ul style="list-style-type: none"> <li>○ Power to set hackney carriage fares</li> <li>○ Power to create hackney carriage stands</li> <li>○ Hackney Carriage and Private Hire Policy</li> </ul> </li> </ul> | All cases  |  |
| <ul style="list-style-type: none"> <li>• To consider appeals by applicants against a decision of the <b>Service Lead: Public Protection</b> in respect of an application for such a licence</li> </ul>  |  | All cases  |
| <ul style="list-style-type: none"> <li>• To consider cases involving the behaviour or suitability of the holder of, or applicant for, a licence</li> <li>• To suspend or revoke an existing licence, or refuse an application for such a licence</li> <li>• Decision on matter which may require the issue of penalty points</li> </ul>                           |  | Where referred by the <b>Service Lead: Public Protection</b> |

### **3 Housing (Appeals) Committee**

3.1 To hear and determine the following matters where they do not fall, or are not decided, within the scheme of delegation to officers:

- a) **Specific cases in respect of either public or private sector housing referred by the Corporate Head of Housing or where a specific request for consideration has been made by a Member of the Council;**
- b) **Where housing applicants wish to appeal against the decision to suspend their application for a period of one year;**
- c) **To determine appeals in respect of discretionary housing payments;**

(Note: A general protocol operates whereby the relevant Ward Member(s) will be invited to attend the Committee and have the right to address the meeting on particular cases).

#### 4 Winchester Town Forum

- a) To consider the draft capital and Revenue Budget for the S35 Town Account each year and to make recommendations to Cabinet and Council.
- b) Within the Council's Budget and Policy framework and the framework of the S35 Town Account Revenue Budget:
  - (i) To incur expenditure;
  - (ii) To set fees and charges;
  - (iii) To make decisions in connection with the operation or management of property or facilities;
  - (iv) To make arrangements for special events;
  - (v) To scrutinise budget and other performance monitoring reports;
  - (vi) To authorise incurring expenditure up to a limit of £50,000 on Town Account capital schemes within the approved capital programme under Financial Procedure Rule 6.4.
  - (vii) To authorise virement of a sum of £25,000 or less in total in any one year between budget heads subject to:
    - The virement being in respect of a budget within the S35 Town Account and that the base budget is not increased; and
    - Where in the opinion of the Section 151 Officer the provisions of the Council's Financial Procedure Rules (Rules 7.4 (b) to (d) and 7.5) on virement are met.
  - (viii) To consider the programme of schemes within the Town Wards to be funded from the Open Spaces Fund each year, including any other funds specifically allocated to the programme of schemes within the Town Wards, particularly the Community Infrastructure Levy (CIL), and to make recommendations to Cabinet and the Cabinet Member.
- c) To act as a consultative and advisory body regarding issues affecting the five Winchester Town District Wards which, on occasions, may also include 'cross-boundary' matters involving adjoining areas that will have an impact in the town area.

- d) Council officers shall ensure that the Town Forum is consulted on local and cross-boundary matters on the same basis as Parish Councils and Town Councils, except on regulatory matters, in particular planning or licensing applications, where Parish Councils and Town Councils are statutory consultees and ward Councillors are consulted in their own right.
- e) To forward any recommendations for action principally to Cabinet, but also to one of the regulatory Committees and/or Council when appropriate.
- f) To promote community engagement and discussion within the Town Wards by undertaking consultation exercises or encouraging the formation of community groups.
- g) To collaborate with neighbouring Parish and Town Councils on items of common interest.

PROVIDED THAT these provisions shall not be exercised on behalf of any parished areas, such as that part of St Barnabas Ward that is within the Parish of Littleton and Harestock (Harestock Parish Ward).



## 5 Joint West of Waterlooville Major Development Area (MDA) Planning Committee

### 5.1 Establishment of the Joint Committee

- a) There shall be constituted under the provisions of Section 101(5) and Section 102 of the Local Government Act 1972 a Joint Committee to be known as the “West of Waterlooville Major Development Area Joint Planning Committee”.

### 5.2 The Joint Committee is established by Havant Borough Council and Winchester City Council.

a) The area within which the Joint Committee is to exercise its authority is the West of Waterlooville Major Development Area, as shown on the plan attached as Appendix A.

b) This Constitution sets out how the Joint Committee will operate and how decisions are made.

### 5.3 Functions Delegated to the Joint Committee

- a) Subject to the remaining provisions of this Clause 2, the following functions shall be delegated to the Joint Committee insofar as they relate to matters within the West of Waterlooville Major Development Area:

|  |
|--|
| Power to determine applications for planning permission (including applications for reserved matters).                   |
| Power to determine applications to develop land without compliance with conditions previously attached.                  |
| Power to grant planning permission for development already carried out.  |
| Duties relating to the making of determinations of planning applications.  |
| Power to determine applications for planning permission made by a local authority, alone or jointly with another person. |
| Power to enter into agreement regulating development or use of land.   |

The delegation includes all the powers necessary to facilitate, or otherwise incidental or conducive to, the discharge of the functions of the Joint Committee.

5.4 The following functions shall be reserved to the appointing Authorities and shall not be within the powers of the Joint Committee:

|  |
|--|
| Power to decline to determine application for planning permission.   |
| Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.   |
| Power to issue a certificate of existing or proposed lawful use or development.  |
| Power to serve a completion notice.  |
| Power to grant consent for the display of advertisements.  |
| Power to authorise entry onto land.  |
| Power to require the discontinuance of a use of land.  |
| Power to serve a planning contravention notice, breach of condition notice or stop notice.   |
| Power to issue a temporary stop notice   |
| Power to issue an enforcement notice.  |
| Power to apply for an injunction restraining a breach of planning control.   |
| Power to determine applications for hazardous substances consent, and related powers.  |
| Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject. |
| Power to require proper maintenance of land.   |
| Power to determine application for listed building consent, and related powers.  |
| Duties relating to applications for listed building.   |
| Power to serve a building preservation notice, and related powers.   |
| Power to issue listed building enforcement notices.  |
| Powers to acquire a listed building in need of repair and to serve a repairs notice.   |
| Power to apply for an injunction in relation to a listed building.   |
| Power to execute urgent works.   |

|   |
|---|
| Power to determine applications to fell or carry out works to trees that are the subject of a Tree Preservation Order |
|---|

- 5.5 The Joint Committee shall not have authority to take any decision which is contrary to or not wholly in accordance with the budget approved by Havant Borough Council or Winchester City Council for the Joint Committee or is contrary to an approved policy or strategy of either of the authorities.
- 5.6 Save as expressly provided, the functions delegated to the Joint Committee shall not affect the schemes of delegations for officers for determining planning applications adopted by Winchester City Council and Havant Borough Council.
- 5.7 Membership and Appointment of the Joint Committee
- a) The Joint Committee shall comprise nine Members, being five Members from Winchester City Council and four from Havant Borough Council. Each appointing Authority shall, unless there are overriding reasons to the contrary, appoint to the Joint Committee the Chairperson of their Committee responsible for planning matters.
  - b) Each Authority may appoint deputies to act for the appointed Members of the Joint Committee. Where the appointed Member is unable to attend a meeting of the Joint Committee, their Deputy may attend and carry out their responsibilities, including voting in their absence.
- 5.8 Quorum
- a) The quorum for a meeting of the Joint Committee shall be four Members, with at least one Member from each Authority.
- 5.9 Chairperson and Vice-Chairperson of the Joint Committee
- a) The Chairperson of the Joint Committee shall be the Chairperson of the Planning Development Control Committee of Winchester City Council.
  - b) The Vice-Chairperson of the Joint Committee shall be the Chairperson of the Development Management Control Committee of Havant Borough Council.
- 5.10 Secretary to the Joint Committee
- a) The Joint Committee shall be supported by the Secretary to the Joint Committee.
- 5.11 The Secretary of the Joint Committee shall be an officer of one of the appointing Authorities, appointed by the Joint Committee for this purpose.

5.12 The functions of the Secretary of the Joint Committee shall be:

- a) To maintain a record of membership of the Joint Committee;
- b) To summon meetings of the Joint Committee;
- c) To prepare and send out the agenda for meetings of the Joint Committee in consultation with the Chairperson and the Vice-Chairperson of the Joint Committee;
- d) To keep a record of the proceedings of the Joint Committee;
- e) To take such administrative action as may be necessary to give effect to decisions of the Joint Committee;

5.13 Convening of Meetings of the Joint Committee

- a) Meetings of the Joint Committee shall be held at such times, dates and places as may be notified to the members of the Joint Committee by the Secretary to the Joint Committee.

5.14 Procedure at Meetings of the Joint Committee

- a) The Joint Committee shall, unless the member of the Joint Committee presiding at a meeting or the Joint Committee determines otherwise, conduct its business in accordance with the Constitution of Winchester City Council, except in so far as may be specified to the contrary in this Constitution.

5.15 The Chairperson of the Joint Committee, or in their absence the Vice-Chairperson of the Joint Committee, or in their absence the member of the Joint Committee elected for this purpose, shall preside at any meeting of the Joint Committee.

5.16 Subject to Clause 8.4, decisions shall be decided by a majority of the votes of the members present and voting.

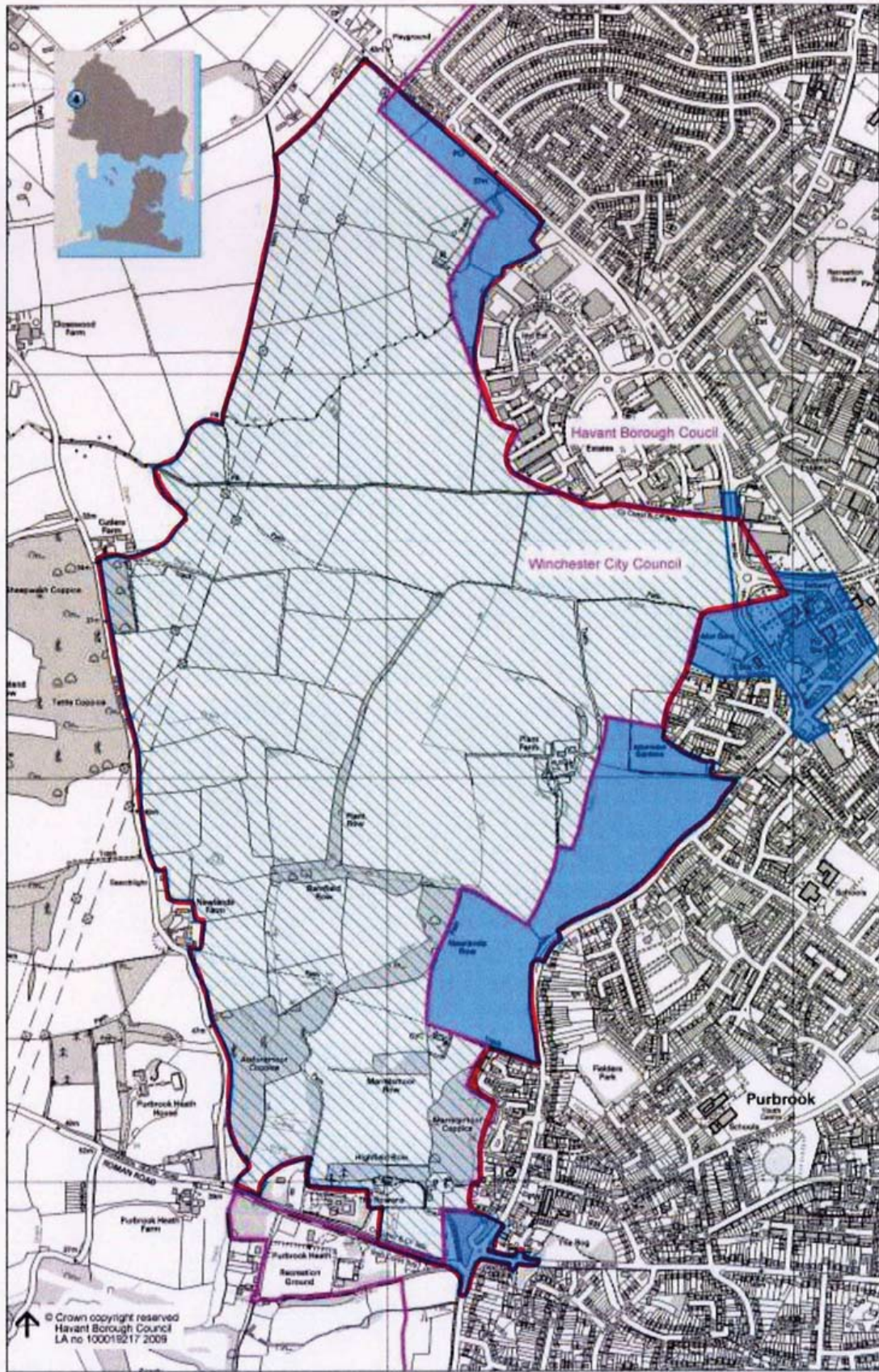
5.17 The Chairperson shall have a second or casting vote.

5.18 Where, immediately following the taking of a decision, at least two members of the Joint Committee indicate that the decision should be referred back and made by the relevant local planning authority(ies) for the application; the matter shall stand referred to the appropriate local planning authorities for determination.



5.19 Amendment of this Constitution

- a) This constitution can only be amended by resolution of all appointing Authorities.

# Appendix A - Waterlooville MDA



Site 4 in Havant Borough Core Strategy

-  MDA Boundary
-  Land in Havant Borough

## **6 Appointments Panel**

- 6.1 The membership of the Appointments Panel will be comprised of Leader, deputy Leader, Leader of the opposition and deputy Leader of the principal opposition as well as a member of the Audit & Governance Committee.

## Part 3.4 – The Scheme of Delegation to Officers

This section of the Constitution sets out the overall Scheme of Delegation to Officers.

### 1 Delegations Functions

1.1 This Scheme has been agreed by the Full Council and by the Leader of the Council and authorises officers of the Council subject to the limitations and reservations of this Scheme to:

- a) Exercise the Council's functions, powers and duties (both Executive and non-Executive) which relate to their areas of responsibility described in the Scheme or amended subsequently by authority of the Chief Executive or such authority delegated by the strategic directors.
- b) Exercise functions specifically delegated to them either by the Leader (under the Local Government Act 2000 and Localism Act 2011 or subsequent amending legislation) or by the Council, a Committee or Sub-Committee (under Section 101 of the Local Government Act 1972).

1.2 The Council wants its officers to be empowered to manage the services entrusted to them. The Scheme is intended to be interpreted broadly and to empower its officers to manage the services entrusted to them. It is not subject to express annual approval by Full Council. The Scheme is to be treated as agreed by the Council when a resolution to adopt the amended Constitution is agreed. The Scheme shall remain in force, subject to any specific amendments or the adoption of a new Constitution or part thereof.

### 2 Member Consultation

- a) Where an officer takes a decision under delegated authority on a matter which has significant policy, service or operational implications or is known to be politically sensitive, the officer shall first consult with the appropriate Cabinet Member(s) or the relevant Committee Chairperson before exercising the delegated powers.
- b) An officer may at their discretion consult the appropriate Cabinet Member(s) or the appropriate Committee, or its Chairperson, before exercising delegated powers; or not exercise delegated powers but refer the matter to the Leader, the Cabinet or a Committee for a decision.
- c) In exercising delegated powers, officers will engage with ward Councillors on all significant matters that affect their wards.

### 3 Reservations

3.1 This Scheme does not delegate any function to an officer which:

- a) Is reserved by law to the Council, the Cabinet, the Leader of the Council, a Committee or Sub-Committee of the Council; and



b) Any matter which is specifically excluded from delegation by the Scheme or by resolution of the Council or Executive.

#### 4 Chief Executive, Strategic Directors, Directors and Corporate Heads of Service/Heads of Programme Areas of Responsibility

4.1 The delegations that follow apply to the Chief Executive, Strategic Directors, Directors, Corporate Heads of Service/Heads of Programme or their duly authorised officers. This includes all powers and duties under all legislation present and future in their described areas of responsibility and all powers and duties incidental to that legislation.

4.2 The exercise of a delegated power, duty or function shall:

a) be subject to the City Council's Policy and budget Framework;

b) be subject to the requirements of the Constitution;

c) be subject to the requirements of the Council Procedure Rules, Financial Procedure Rules, Contract Procedure Rules and any delegations contained therein.

4.3 An officer to whom a power, duty or function is delegated may authorise another officer to exercise that power, duty or function, subject to the requirements that follow:

a) such authorisations shall be in writing and shall only be given to an officer over which the officer with the original delegated power etc. has control;

b) such authorisations should only be given where there is significant administrative convenience in doing so;

c) the officer authorised by the other should act in the name of the officer who received the original delegation;

d) no authorisation may be given if the statute or law prohibits it.

4.4 Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.

4.5 The compilation of a Register of Delegated Powers is a statutory requirement. The Register is maintained by the Service Lead Legal and delegations are added to it as they are made by delegating bodies. Officers should take care to inform themselves of any subsequent changes to the Register before solely relying on this document. The Service Lead Legal shall have the power to amend this Register to reflect re-organisations, changes in job titles and vacancies, where said changes result in re-distributing existing delegations and not the creation of new ones.

## 5 The Chief Executive

The list below comprises the statutory appointments attached to the Chief Executive post and the delegated powers and duties.

- 5.1 The Chief Executive has been appointed as the Council's Head of Paid Service and shall be provided by the authority with such resources as they deem necessary to perform that role. The Head of Paid Service shall have overall corporate management and operational responsibility for the way in which the organisation delivers its services.
- 5.2 The Chief Executive has been appointed as the Council's Electoral Registration and Returning Officer and to be responsible for the functions, staff and budget for elections and electoral registration and as such:
- a) shall appoint Deputy Returning Officers for elections to the District Council and Parish Councils within the District.
  - b) shall appoint Deputy Electoral Registration Officers
  - c) shall undertake all functions and responsibilities for local, national, and any other elections, in accordance with UK legislation and regulations, save where otherwise provided including, but not limited to, the registration functions and duties (including varying the location of polling places where required; and
  - d) shall have the authority to determine the fees and charges for local elections in accordance with the decision of the Hampshire and Isle of Wight Election Fees Working Party
- 5.3 The following powers and duties are delegated to the Chief Executive:
- a) To be responsible for the general management of the Council's workforce including but not limited to staffing, employment, terms and conditions and industrial relations save for those matters which have been delegated to Strategic Directors and Corporate Heads of Service/Heads of Programme and those matters relating to the Head of Paid Service and the chief officers.
  - b) To alter the areas of responsibility of Strategic Directors and Corporate Heads of Service/Heads of Programme set out in the areas of responsibility in this Scheme and to act in the place of any officer having delegated authority under the Scheme as may be required by absence or any other reason to promote the efficient decision making of the Council.
  - c) Power to act in person (or their nominee) in an emergency, in consultation with the Leader and relevant Cabinet Member or Committee Chairperson where practicable.

- d) Subject to reporting back to the Council or the Cabinet as soon as is practicable, power to act in matters of urgency and to take any decision which could be taken by the Council, the Cabinet or a Committee, as follows:
  - (i) Cabinet level action – in consultation with the relevant Cabinet Member where practicable (or, in their absence, the Leader);
  - (ii) Committee level action – in consultation with the relevant Chairperson where practicable
- e) To make Proper Officer appointments in cases of Interim Appointees, or in cases of urgency, subject to a report to Full Council where appropriate. In addition, in consultation with the Leader of the Council, to designate officers of the Council as the Section 151 Officer and the Monitoring Officer. This is subject to the procedures in the Constitution for reports to Full Council.
- f) The responsibility for risk management in liaison with the Section 151 Officer.
- g) Signing of key documents jointly with the Leader of the Council including the Annual Statement of Internal Control, Annual Governance Statement and Code of Corporate Governance.
- h) Power to add items to the agendas of any of the Overview and Scrutiny Committees without specific reference to Cabinet.

## 6 Strategic Directors

Strategic Directors have delegated authority from the Chief Executive as follows:

- 6.1 To carry out the role as Chief Executive and Head of Paid Service in their absence as nominated.
- 6.2 To make decisions necessary for the discharge of functions and to exercise the powers and duties relevant to their areas of responsibility (including the making of Key Decisions) allocated to them. This includes matters dealt with by them or their staff, except for matters specifically reserved to the Cabinet, Committees or Full Council. The allocation of responsibility for functions to any of these decision-making bodies does not limit a Strategic Director's authority unless this is stated to be the case or required by law.
- 6.3 To implement decisions of the Council, the Cabinet, and the Council's Committees and Sub-Committees in the discharge of the Council's functions.
- 6.4 To take operational, managerial or professional decisions relevant to their areas of responsibility as detailed in the table above and including but not limited to the following:

- a) Recommend whether to commence and defend legal proceedings on behalf of the Council, in consultation with the Service Lead - Legal and the Chief Executive.
  - b) Apply for planning permission and all other permissions or consents for development to be undertaken by the Council.
  - c) Deal with all matters relating to the recruitment, appointment, remuneration, honoraria, qualification, training, promotion, appraisal, and health and safety of, and the provision of welfare facilities to, all employees in their areas of responsibility.
  - d) Appoint, suspend, discipline and dismiss employees and to deal with grievances raised by employees within their areas of responsibility having had regard for the advice of the Human Resources Service Lead.
  - e) Negotiate, approve, and award in consultation with the Strategic Director: Resources or their representative, any contract for the supply of goods and services or the execution of works to a third party in line with the Council's Procurement Rules and the Financial Procedure Rules.
  - f) Award contracts in line with the Council's Procurement Rules and the Financial Procedure Rules.
  - g) Make amendments to policies which have been approved by members which do not have a significant impact on the operation of the current policy.
  - h) Incur expenditure and collecting income, engaging and deploying staff, procuring other resources within or outside the Council.
- 6.5 To take all lawful action to deliver agreed strategies, plans and policies.
- 6.6 To take decisions the effect of which is to grant or withdraw a permission or licence, affect the rights of an individual, award a contract or incur expenditure relevant to their areas of responsibility.
- 6.7 Strategic Directors may authorise in writing other Council officers within their areas of responsibility to act in their name in operational, managerial or professional matters.
- 6.8 Strategic Directors and nominees must keep and publish a record of decisions taken to comply with the Access to Information Rules in this Constitution and any statutory requirements.
- 6.9 To respond to consultations and requests for submission from Government Departments, other local authorities, international, academic, research, business representatives and other bodies in respect of: provision and sharing

of data and research initiatives; policies, strategies and plans; performance and partnership working.

- 6.10 Following consultation with the Service Leads Legal and Finance to submit bids for or tenders involving funding or assistance from central government, or from any other source (direct or indirect to the council itself), and to take any further steps including the entering into of any relevant agreements to fulfil the requirements of any bid or tender and to take any necessary or expedient action (including the purchase of services, supplies and works) in the consequential administration of any such bids or tenders. (NB: this delegation applies not only to existing regimes but also to any new schemes as yet not in place, is framed broadly and should apply in the same way).
- 6.11 To complete and submit expressions of interest, enter into and vary, research and development projects and associated partnerships within estimates, including seeking external funding or joining funding partnerships, providing the whole life cost of the project does not have an adverse impact on the council's financial position.
- 6.12 To undertake benchmarking, cost comparison consultation and all activities associated with Best Value and to take all actions necessary and expedient to ensure best professional practice and Best Value.
- 6.13 To take any consequential action necessary or expedient in respect of a bid or tender involving funding or assistance from central government, or from any other source.
- 6.14 Without limiting the scope of the authority given under this Scheme of Delegation the Officer is responsible for taking into account the implications of their decisions on the Council's policies and its legal obligations in relation to climate change and environmental sustainability, equality and diversity, human rights, freedom of information, safeguarding, risk management and crime and disorder.
- 6.15 The functions allocated to Strategic Directors under this Scheme of Delegation are those functions which fall within their areas of responsibility. All Strategic Directors can exercise the powers of other Strategic Directors if they are absent.
- 6.16 Some legislation requires or enables the Council to appoint a named or "proper officer" for particular purposes. A list of the proper officer functions and who is responsible for carrying them out is set out at the end of this scheme of delegation.

## **7 Specific Strategic Director Delegated Powers**

### **7.1 Strategic Director: Resources**

The Strategic Director Resources has the responsibility for the Service Lead - Legal.

7.2 The **Service Lead – Legal** has authorisation to:

- a) To provide or arrange for the provision of legal advice to the Council, shared services, partner bodies and organisations, etc including obtaining Counsel's opinion and instructing Counsel and/or external solicitors as appropriate either on a case by case, or in any other appropriate manner or form.
- b) Bring, defend or participate in all legal proceedings and appeals in all courts or tribunals or the like, and to represent the Council, settle or enforce or take steps to comply with a judgement in all such proceedings. This includes determining whether or not to exercise the Council's powers under Section 222 of the Local Government Act 1972 (general power of local authorities to prosecute or defend legal proceedings) and participating in all kinds of alternative dispute resolution.
- c) Instruct Counsel and external solicitors as appropriate.
- d) Prepare, sign and seal all documents, notices, consents, refusals, applications, certificates, determinations and decisions required to give effect to decisions of and on behalf of the Council or Cabinet.
- e) Sign all documents and notices on behalf of the Council in relation to any formal or legal proceedings.
- f) Give authorisation to other qualified persons, to prosecute or defend on behalf of the Council at Inquiries and participate in proceedings before the Magistrates or County Court.
- g) On behalf of the Council, to appear at Local Inquiries arising under the Town and Country Planning Acts and legislation relating to compulsory purchase.
- h) Affix the Common Seal of the Council.
- i) Administer the Members' Allowances Scheme.
- j) To determine applications for Lawful Development Certificates under Section 191 and Section 192 of the Town and Country Planning Act 1990 (see also powers delegated to the Corporate Head of Planning and Regulatory).
- k) To compile a Register of Delegated Powers and delegations are to be added to it as they are made by delegating bodies. Officers should take care to inform themselves of any subsequent changes to the Register. The Service Lead Legal shall have the power to amend this Register to reflect re-organisations, changes in job titles and vacancies, where said changes result in re-distributing existing delegations and not the creation of new ones.

7.3 The Strategic Director Resources is **the Monitoring Officer** for the purposes of Section 5 Local Government and Housing Act 1989 and as a result is authorised to take all necessary actions and steps to fulfil their statutory duties. In addition they are authorised to

- a) Maintain an up-to-date version of the Constitution and ensure that it is widely available.
- b) Maintain a Register of Interests of Councillors and co-opted Members of the Council and ensure that this is widely available.
- c) After consultation with the Head of Paid Service and Section 151 Officer, report to Full Council or the Cabinet in relation to an executive function, if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given, or may give, rise to maladministration.
- d) Provide advice on the scope of powers and the authority to take decisions with the assistance, if needed, of the Service Lead - Legal.
- e) Ensure that executive decisions, with the relevant background papers and reasons are made publicly available as soon as possible.
- f) Contribute to the promotion of high standards of conduct through the provision of support to the Audit and Governance Committee and to all Councillors generally.
- g) To have responsibility for the management of the complaints procedure relating to Councillors and the duties thereunder to be undertaken by the Monitoring Officer.
- h) Agree a local resolution, if possible, to any maladministration complaints in consultation with the Chief Executive.

7.4 **The Section 151 Officer** reports to the Strategic Director Resources and as a result is authorised to take all necessary actions and steps to fulfil their statutory duties. In addition, they are authorised to:

- a) Undertake responsibility for the administration of the Council's financial affairs for the purposes of section 151 of the Local Government Act 1972 and who is obliged to report under section 114 of the Local Government Finance Act 1988 on unlawful expenditure, unlawful action likely to cause loss or deficiency or an unlawful entry in the Council's accounts.
- b) Manage the Collection Fund.
- c) Administer the Council's Treasury Management function; write off debts in line with the Council's financial procedure rules.

- d) Maintain an adequate and effective system of internal audit.
- e) Maintain and develop the Council's risk management policy.
- f) Carry forward to a future financial year any unspent one-off budget is delegated in full to the S151 officer where satisfied that the proposals for spend in the following year is consistent with the relevant Council strategic policies.

## 7.5 Strategic Director: Services

The Strategic Services has responsibility for the Head of Asset Management.

## 7.6 Corporate Head of Asset Management has authorisation to:

- a) Grant all non-contentious leases, lease renewals, licences, tenancy, agree rent reviews for terms up to 125 years at rentals up to £200,000 a year exclusive;
- b) Purchase land required for highway schemes under the Highways Agency Agreement up to £10,000 in value subject to approval by the Cabinet or relevant Committee and the Hampshire County Council, and to the availability of finance;
- c) Purchase land up to £1,000,000 in value, subject to Cabinet or Committee approval having been obtained for the scheme and the availability of finance;
- d) Make disturbance payments up to £10,000;
- e) Authorise home loss payments complying with the provisions of the Land Compensation Act 1993 of 10% of the market value of the property, subject to the statutory minimum and maximum payments current at the time;
- f) Granting of easements up to £50,000 in value;
- g) Sell freehold reversions to the leaseholders;
- h) Give incidental approvals and consents under conveyances, transfers, leases and temporary lettings, to include variations, assignments, sub-lettings and Landlords' consent;
- i) Grant approvals and consents under conveyances, leases, agreements and temporary lettings of properties purchased for redevelopment;
- j) Accept dedications of land for the improvement or construction of highways on payment of surveyors' fees and any necessary accommodation works;



- k) Conduct of negotiations for the purchase of properties in mortgage hardship cases and the making of any necessary tenancy arrangements. In consultation with the Cabinet Member for Asset Management;
- l) Authorise non contentious sales up to £1,000,000 where approved in principle by Cabinet.

## 7.7 Strategic Director: Place

The Strategic Director Place has the responsibility for the Corporate Head of Planning and Regulatory

## 7.8 Corporate Head of Planning and Regulatory has authorisation to:

- a) Make decisions on any application falling within the remit of the Planning Committee except those in respect of applications for planning permission/listed building consent/works to a protected tree or advertisement consent where:
  - (i) A Councillor requests that an application be referred to Committee by completing a standard form setting out material planning reasons and that the form be attached to the Committee report;
  - (ii) A relevant Parish Council registers a request that an application be referred to Committee, setting out material planning reasons in the request, but only where the Parish Council views are contrary to the intended decision of the officer;
  - (iii) The Corporate Head of Planning and Regulatory considers the application to be for significant development and intends to grant planning permission for the application;
  - (iv) The application is submitted by or on behalf of the Council, or includes Council-owned land, the Corporate Head of Planning and Regulatory intends to grant permission and one or more objections has been received;
  - (v) Six or more representations, which the Corporate Head of Planning and Regulatory considers relates to material planning considerations, are received from separate individual addresses within the Winchester City Council administrative area or within close proximity to the proposed development if outside and which are contrary to the intended decision of the officer.
  - (vi) (NB – for the purposes of this exception, a petition will be regarded as one representation, regardless of the fact that addresses may have been included as part of signing the petition – the Council’s petition procedure specifically excludes planning applications);

(vii) The application relates to a Member or relevant Officer of the Council (namely Executive Leaders Board members, Corporate Heads of Service/Heads of Programme, staff in the team structures of Corporate Head of Planning and Regulatory and other staff who advise on planning matters) in that the application:

- Has been submitted by them or on their behalf; or
- Affects land that they own or occupy; or
- Is one where they have made representations of support or objection and where (in respect of Members only) that representation would constitute a personal and prejudicial interest.

(NB under the Council's Planning Protocol all applications within this exception should be notified to the Corporate Head of Planning and Regulatory and Service Lead Legal).

7.9 All other functions within the remit of the Planning Committee, including but not limited to the following, shall be delegated but not limited to the Corporate Head of Planning and Regulatory (subject to any exceptions or conditions stated below):

- a) In consultation with the Chairperson of the Planning Committee (or in their absence, the Vice-Chairperson of the Committee) to determine any application which would fall within the general delegation under 1 above (notwithstanding the fact that one or more of the exemptions may have been triggered), in cases where it would not be reasonably practicable for the matter to be dealt with by the Planning Committee within any period prescribed for decision;
- b) The authority to make screening and scoping opinions under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 in connection with prospective or current applications;
- c) Authority to exercise the functions of the Council under the Conservation of Habitats and Species Regulations 2010 and 2017, including in relation to appropriate assessments;
- d) Authority to make decisions on Lawful Development Certificates under Section 191 and Section 192 of the Town and Country Planning Act 1990;
- e) Authority to respond to consultations and notifications from other local planning authorities;
- f) Authority to make immediate Article 4 Directions removing permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 or any subsequent amendments, in cases of urgency;

g) Authority to make determinations as to whether prior approval is required under the Town and Country Planning (General Permitted Development) (England) Order 2015 or any subsequent amendments;

h) Authority to stop up or divert a public footpath under Section 257 of the Town and Country Planning Act 1990 or under Sections 118 or 119 of the Highways Act 1980.

7.10 The Corporate Head of Planning and Regulatory has the authority to exercise all of the above powers in respect of the South Downs National Park (in accordance with an agency agreement with the South Downs National Park Authority).

## **8 Directors, Corporate Heads of Service/Heads of Programme**

8.1 Directors and each Corporate Head of Service/Head of Programme may exercise any of the following functions within their respective areas of responsibility. This includes further delegation of a function (unless legislation/statute expressly requires a particular professional qualification to be held).

8.2 Expenditure within the approved revenue budget; entering into any necessary contracts for the supply of goods or services (subject to the provisions of Contract Procedure Rules and the Finance Procedure Rules); taking any necessary action to enforce or terminate such contracts in line with the any contract management guidance issued by the Service Lead – Transformation and Procurement.

8.3 Implementation of requirements and procedures in relation to procurement of works, goods and services tendering including selection of contractor.

8.4 Decisions on applications for and cancellation of permits, licences or certificates of registration where all statutory requirements are satisfied, and in accordance with any policy of the Council in relation to the function concerned.

(Note: the inclusion of references to specific types of permit, licence etc. in the list of delegations to individual directors is without prejudice to the generality of this item.)

8.5 To appoint officers/inspectors, to authorise or designate officers and such other persons as might be necessary for the purpose of performing the Council's statutory powers or duties, including to enter and inspect land or premises or to undertake investigations or to obtain information or samples.

8.6 Decisions in connection with the operation or management of property or facilities.

8.7 Carrying out minor development on Council owned land if specific expenditure is authorised.

- 8.8 Authority to make representations on behalf of the Council as a Responsible Authority under the Licensing Act 2003.
- 8.9 Following consultation with the relevant Cabinet Member, to agree changes to approved Cabinet Member Plans, provided that the amended Cabinet Member Plan will continue to deliver the Council's policy framework within the agreed budget.
- 8.10 On behalf of the Council, following consultation with the relevant Cabinet Member, to agree responses to consultation papers from government and/or regional and professional bodies and other agencies.