

## **Part 3**

### **SECTION 4 - THE SCHEME OF DELEGATION TO OFFICERS**

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

#### **General Delegation**

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).

The Council wants its officers to be empowered to manage the services entrusted to them. The Scheme is intended to be interpreted broadly. 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 in 2019. The Scheme shall remain in force, subject to any specific amendments or the adoption of a new Constitution.

#### **Conditions for Exercise of Delegated Functions**

The exercise of functions delegated to officers under this Scheme must comply with:

- Any legal requirements or restrictions;
- The Council's Constitution as a whole;
- The Council's policy framework and other approved plans and strategies approved by the Council and the Cabinet
- The in-year budget
- All Council procedures such as the Employee Code of Conduct
- The Council's Human Resources policies and procedures
- Contract Procedure Rules, Financial Regulations and Financial Procedures

Where a function has been delegated to an officer the decision may be taken in the name of (but not necessarily personally by) the delegated officer or by another officer in accordance with arrangements made from time to time by such delegated officers for this purpose.

For clarity, all officers will keep records of decisions taken under this Scheme of Delegation.

### Member Consultation

1. 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 Portfolio Holder(s) or the relevant Committee Chairman before exercising the delegated powers.
2. An officer may at their discretion consult the appropriate Portfolio Holder(s) or the appropriate Committee, or its Chairman, before exercising delegated powers; or not exercise delegated powers but refer the matter to the Leader, the Cabinet or a committee for a decision.
3. In exercising delegated powers, officers will keep ward Members informed of matters affecting their wards.
4. In the event that there are any doubts about the responsibility for the exercise of a delegated power, the Chief Executive (or whoever the Chief Executive shall nominate) is authorised to act.

### **Reservations**

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

### **Chief Executive and Strategic Directors' and Corporate Heads of Service Areas of Responsibility**

The delegations that follow apply to the Chief Executive, Strategic Directors, Corporate Heads of Service 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.

The Strategic Directors and their respective areas of responsibility are:

<b>Post</b>	<b>Areas of Responsibility</b>
Chief Executive	Head of Paid Service All staffing issues Overall responsibility for the delivery of all Council services
Strategic Director: Resources	Financial Services Revenues Payroll, Risk and Insurance

	<p>Legal and Democratic Services  Human Resources  Learning and Development  Information Management and Technology  Business Services  Customer Services  Health and Safety  Policy and Projects  Organisation Development</p>
Strategic Director: Services	<p>Housing  Community, Safety and Neighbourhood  Car Parking and CCTV  Environmental Health  Licensing  Strategic Planning  Building Control  Drainage and Maintenance  Environment  Development Management  Engineering and Transport  Landscape and Open Spaces</p>
Strategic Director: Place	<p>Facilities  Building Services  Asset Management  Market and Street Traders  Tourism  Economy and Arts  Corporate Communications  Sport and Physical Activity  Health and Wellbeing  Guildhall</p>

### The Chief Executive

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

1. The Chief Executive has been appointed as the Council's Head of Paid Service
2. The Chief Executive has been appointed as the Council's Returning Officer and to be responsible for the functions, staff and budget for elections and registration.
3. The following powers and duties are delegated to the Chief Executive:
  - a) (i) 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 and those matters relating to the Head of Paid Service and the chief officers.
  - (ii) To alter the areas of responsibility of Strategic Directors and Corporate Heads of Service 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 made be required by absence or any other reason to promote the efficient decision making of the Council.

- b) power to act in an emergency, in consultation with the Leader and relevant Portfolio Holder/Committee Chairman where practicable.
- c) 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 Portfolio Holder where practicable (or, in his/her absence, the Leader);
  - (ii) Committee level action – in consultation with the relevant Chairman where practicable
- d) 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.
- e) The responsibility for risk management in liaison with the Section 151 Officer
- f) 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
- g) Power to add items to the agendas of The Overview and Scrutiny Committee and its Committees without specific reference to Cabinet.

### **Strategic Directors**

They have delegated authority from the Chief Executive as follows:

1. To carry out the role as Chief Executive and Head of Paid Service in his/her absence as nominated.
2. To discharge the functions and 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.
- 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.

- 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) Decisions on whether to commence and defend legal proceedings on behalf of the Council, in consultation with the Head of Legal Services and the Chief Executive
  - b) Seek 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 Head of Human Resources.
  - 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 an external agency in line with the Council's Procurement Rules.
  - f) Award contracts in line with the Council's Procurement Rules.
  - g) Make amendments to policies approved by members which do not have a significant impact on the operation of the current policy .
- 5 To take all lawful action to deliver agreed strategies, plans and policies.
- 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.
- 7 Strategic Directors may use whatever means they consider appropriate to discharge those functions allocated to them, including:
  - incurring expenditure and collecting income
  - engaging and deploying staff
  - deploying other resources within their control;
  - procuring other resources within or outside the Council.
- 8 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.
- 9 Strategic Directors may nominate other Council officers reporting to them and the nominated officers may then take decisions in the discharge of functions allocated to the Strategic Director in accordance with the nomination. The Strategic Director must keep a record of the nomination setting out the job title of the officer and the functions which the officer may discharge.

- 10 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.
- 11 Without limiting the scope of the authority given under this Scheme of Delegation:
  - Decisions must not conflict with the Budget or the Policy Framework
  - There should be available budgetary provision
  - 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 and opportunity management and crime and disorder.

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.

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.

### **Specific Strategic Director-Delegated Powers**

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

The Strategic Director of Resources has the Executive Leader Board responsibility for the Head of Legal Services.

**The Head of Legal** has authorisation to:

1. 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.
2. instruct Counsel and external solicitors as appropriate
3. 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
4. sign all documents and notices on behalf of the Council in relation to any formal or legal proceedings

5. give authorisation to other qualified persons, to prosecute or defend on behalf of the Council and appear in proceedings before the Magistrates or County Court
6. on behalf of the Council, to appear at Local Inquiries arising under the Town and Country Planning Acts and legislation relating to compulsory purchase.
7. affix the Common Seal of the Council
8. administer the Members' Allowances Scheme
9. 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 Head of Development Management)

The Strategic Director of Resources has the Executive Leader Board responsibility for the post of Monitoring Officer

**The Monitoring Officer** has authorisation to:

1. Maintain an up to date version of the Constitution and ensure that it is widely available.
2. Maintain a Register of Interests of Councillors and co-opted Members of the Council and ensure that this is available for instruction.
3. 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 he or she considers 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.
4. Provide advice on the scope of powers and the authority to take decisions with the assistance of the Head of Legal Services.
5. Ensure that executive decisions, with the relevant background papers and reasons are made publicly available as soon as possible.
6. Contribute to the promotion of high standards of conduct through the provision of support to the Audit and Governance Committee and Councillors generally.
7. To have responsibility for the management of the complaints procedure relating to Councillors and the duties thereunder to be undertaken by the Monitoring Officer.
8. Agree a local resolution, if possible, to any maladministration complaints in consultation with the Chief Executive.

The Strategic Director of Resources has the Executive Leader Board responsibility for the post of the Section 151 Officer

**The Section 151 Officer** has authorisation to:

1. 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.
2. manage the Collection Fund
3. administer the Council's Treasury Management function, write off debts in line with the Council's financial procedure rules
4. maintain an adequate and effective system of internal audit
5. maintain and develop the Council's risk management policy

**Strategic Director: Services**

The Strategic Director: Services has the Executive Leaders Board responsibility for the Head of Development Management .

**The Head of Development Management** has authorisation to:

1. Make decisions on any application falling within the remit of the Development Management 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) the Head of Development Management considers the application to be for significant development and intends to grant planning permission for the application;
  - (iii) the application is submitted by or on behalf of the Council, or includes Council-owned land, the Head of Development Management intends to grant permission and one or more objections has been received;
  - (iv) the application relates to a Member or relevant Officer of the Council (namely Executive Leaders Board members, Corporate Heads of Service, staff in the Development Management Team and other staff who advise on planning matters) in that the application:-
    - a) has been submitted by them or on their behalf; or
    - b) affects land that they own or occupy; or
    - c) 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 Head of Development Management and Head of Legal).

2. All other functions within the remit of the Development Management Committee, including the following, shall be delegated but not limited to the Head of Development Management (subject to any exceptions or conditions stated below):
- (i) The authority to issue, vary, modify or revoke Tree Preservation Orders;
  - (ii) Decisions on the confirmation of Tree Preservation Orders (with or without modifications) except where objections have been received and have not been withdrawn, which are reserved for decision by the Development Management Committee;
  - (iii) In consultation with the Chairman of the Development Management Committee (or in his or her absence, the Vice-Chairman 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 Development Management Committee within any period prescribed for decision;
  - (iv) 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;
  - (v) 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;
  - (vi) Authority to make decisions on Lawful Development Certificates under Section 191 and Section 192 of the Town and Country Planning Act 1990 (see also powers delegated to the Head of Legal);
  - (vii) Authority to respond to consultations and notifications from other local planning authorities;
  - (viii) Authority to make immediate Article 4 Directions removing permitted development rights under the Town and Country Planning (General Permitted Development)(England)Order 2015, in cases of urgency;
  - (ix) Authority to make determinations as to whether prior approval is required under the Town and Country Planning (General Permitted Development) (England) Order 2015;

- (x) 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.
3. The Head of Development Management 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).

**Strategic Director: Place**

The Strategic Director: Place has Executive Leaders Board responsibility for the Head of Asset Management.

**Head of Asset Management** has authorisation to:

- a) grant all non-contentious leases, licences, tenancy, agree rent reviews for terms up to 125 years at rentals up to £200,000 a year exclusive, where the principle of letting has been approved by the Cabinet or relevant Committee;
- 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 Portfolio Holder for Estates;
- l) Authorise non contentious sales up to £1,000,000 where approved in principle by Cabinet.

### **Corporate Heads of Service**

Each Corporate Head of Service 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).

1. 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 Contract Management Handbook.
2. Implementation of requirements and procedures in relation to procurement of works, goods and services tendering including selection of contractor,
3. 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.)

4. 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.
5. Decisions in connection with the operation or management of property or facilities.
6. Carrying out minor development on Council owned land, for which a specific planning permission is not required and provided the specific expenditure is authorised.
7. Authority to make representations on behalf of the Council as a Responsible Authority under the Licensing Act 2003.
8. Subject to discussion with the relevant Portfolio Holder, to agree changes to approved Portfolio Holder Plans, provided that the amended Portfolio Holder Plan will continue to deliver the Council's policy framework within the agreed budget.