

## Part 3.4 – The Scheme of Delegation to Officers

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

### 3.4.1 Delegations Functions

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 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.

### 3.4.2 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.

### 3.4.3 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.

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

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.
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.
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. 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.

3.4.5 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.

### 3.4.6 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 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.
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:
  - shall appoint Deputy Returning Officers for elections to the District Council and Parish Councils within the District.
  - shall appoint Deputy Electoral Registration Officers
  - 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
  - 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
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.

### 3.4.7 Strategic Directors

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

1. To carry out the role as Chief Executive and Head of Paid Service in their absence as nominated.
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.

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) 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.
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 authorise in writing other Council officers within their areas of responsibility to act in their name in operational, managerial or professional matters.
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.
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.
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).
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.
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.
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.
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.

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.
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.

#### 3.4.8 Specific Strategic Director-Delegated Powers

##### 3.4.8 Strategic Director: Resources

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

**The Service Lead - Legal** has authorisation to:

1. 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.
2. 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.
3. Instruct Counsel and external solicitors as appropriate.
4. 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.
5. Sign all documents and notices on behalf of the Council in relation to any formal or legal proceedings.
6. 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.
7. On behalf of the Council, to appear at Local Inquiries arising under the Town and Country Planning Acts and legislation relating to compulsory purchase.

- 8 Affix the Common Seal of the Council.
9. Administer the Members' Allowances Scheme.
- 10, 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).
11. To compile a Register of Delegated Powers and delegations are to 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.

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

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 widely available.
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 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.
4. Provide advice on the scope of powers and the authority to take decisions with the assistance, if needed, of the Service Lead - Legal.
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 to all 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 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:

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.
6. 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.

#### 3.4.9 Strategic Director: Services

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

**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.

#### 3.4.10 Strategic Director: Place

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

**Corporate Head of Planning and Regulatory** has authorisation to:

1. 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:
  - a) 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;
  - b) 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;

- c) The Corporate Head of Planning and Regulatory considers the application to be for significant development and intends to grant planning permission for the application;
- a) 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;
- b) 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.  
(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);
- f) 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:
  - i) Has been submitted by them or on their behalf; or
  - ii) Affects land that they own or occupy; or
  - iii) 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).

- 2. 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.
3. 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).

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

**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).

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 any contract management guidance issued by the Service Lead – Transformation and Procurement.

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 if specific expenditure is authorised.
7. Authority to make representations on behalf of the Council as a Responsible Authority under the Licensing Act 2003.
8. 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.
9. 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.