

**PART 4 - OFFICER SCHEME OF DELEGATION
(SECTION 1 – GENERAL PRINCIPLES)**

**PART 4 – OFFICER SCHEME OF DELEGATION
SECTION 1 – GENERAL PRINCIPLES**

Part 4 is set out in four sections as follows:

Section 1: General Principles

Section 2: Chief Executive and Directors

Section 3: Group Heads

Section 4: Functions

Introductory Note:

All functions that are not specifically reserved by law or under this Constitution to Council, a Committee, the Cabinet, a Cabinet Member, or Officers, are delegated to the Cabinet.

**PART 4 – OFFICER SCHEME OF DELEGATION
SECTION 1 – GENERAL PRINCIPLES**

Contents

1.0	GENERAL PRINCIPLES.....	4
2.0	GENERAL LIMITATIONS	5
3.0	DELEGATIONS TO OFFICERS.....	6
4.0	FURTHER PROVISIONS.....	6
5.0	RECORDS OF DECISIONS MADE BY OFFICERS WITH DELEGATED RESPONSIBILITIES	7
6.0	WRITTEN RECORD OF THE DECISION.....	8
7.0	PROPER OFFICERS.....	8

PART 4 – OFFICER SCHEME OF DELEGATION
SECTION 1 – GENERAL PRINCIPLES

1.0 GENERAL PRINCIPLES

- 1.1 All functions that are not specifically reserved by law or under this Constitution to Council, a Committee, the Cabinet, a Cabinet Member, or Officers, are delegated to the Cabinet.
- 1.2 Subject to the above, the Council's functions delegated to Officers are set out in Sections 2 and 3 of this Part of the Constitution.
- 1.3 This scheme is made by the Council under section 101(1) (a) of the Local Government Act 1972 and in accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 or any amendments to them (the "Regulations").
- 1.4 The scheme is made in accordance with section 151 of the Local Government Act 1972, and all other provisions relating to functions held by the Council; and shall be construed in accordance with any legislation amending, or substituted for, any of those provisions, or any legislation having a similar purpose or made for similar purposes.
- 1.5 This scheme does not delegate to officers:
- any matter reserved to full Council,
 - any matter which by law may not be delegated to an officer,
 - any matter expressly reserved to a Committee, the Cabinet or a Cabinet Member by this Constitution,
 - any power to change concession policies,
 - any power to make a decision on permanent savings in a budget,
 - any power to make an order for the compulsory acquisition of land,
 - any power to acquire land in advance of requirements,
 - any power to confirm any order, or to issue or grant any permission, consent, licence or other determination, which is the subject of a statutory right of objection that has been duly exercised.
- 1.6 In respect of any matter falling within the parameters of this scheme, the Chief Executive may in writing make such detailed delegations to Directors concerning functions and activities within their areas of responsibility as he considers appropriate.
- 1.7 This scheme delegates powers and duties within broad functional descriptions. It includes powers and duties under all legislation, byelaws present and future, and common law provisions, within those descriptions, and all powers and duties incidental to that legislation including the institution and conduct of proceedings. The powers and duties shall be exercised in accordance with the Constitution and the policies and objectives of the Council relevant to the matter upon which action is to be taken.
- 1.8 This scheme includes an obligation on officers to keep Members of the Council properly informed of activity arising within the scope of these delegations.

PART 4 – OFFICER SCHEME OF DELEGATION
SECTION 1 – GENERAL PRINCIPLES

1.9 Group Heads and above have the power, in an emergency, to take such action as is necessary within the law to protect life, health and safety, the economic, social or environmental well-being of the District, and to preserve property belonging to the Council or others.

1.10 These general principles and any amendment of or addition to them made by the Council shall apply to the delegation of functions in the Constitution.

2.0 GENERAL LIMITATIONS

2.1 An officer, in exercising delegated powers, shall consult other appropriate officers and shall have regard to any advice received.

2.2 Any exercise of delegated powers shall be subject to any policy framework approved by the Council, including the authority's employment policies and disciplinary procedures, equal opportunities policies, and any service delivery policies; and shall be guided by relevant Codes of Conduct or protocols produced or adopted by the Council (including any Code or protocol which has been included within the Council's Constitution) and the Corporate Plan.

2.3 Any exercise of delegated powers shall be subject to:

- any statutory restrictions
- the Council's Procedure Rules relating to Purchasing, Procurement, Contracts and Disposals
- the Council's Financial Procedure Rules
- Article 14 of the Constitution (Finance, Contracts and Legal Matters)
- the provisions generally of this Part of the Constitution

2.4 In exercising delegated powers, officers shall not go beyond the provision made in the revenue or capital budgets for their service, except to the extent permitted by the Council's Financial Procedure Rules or the Procedure Rules relating to Purchasing, Procurement, Contracts and Disposals.

2.5 Any matters relating to the making and/or alteration of Council policy shall be referred to Council or Cabinet.

2.6 The delegation of authority to deal with any matter shall not override the power of the Council to call for a report on any decision or action taken or to require any such matter under consideration to be referred to the Council or to the appropriate Committee, the Cabinet or a Cabinet Member for decision.

2.7 The Chief Executive, a Director or Group Head may, after consultation with any officer concerned, refer to the Council, the appropriate Committee, the Cabinet or a Cabinet Member for decision any matter which has been brought to his/her notice and which in his/her opinion, because of special difficulty or otherwise, warrants such reference.

2.8 It shall always be open to an officer to whom authority is delegated to consult the appropriate Chairman of a Committee, or other appropriate Member, on the exercise of a delegated function, or not to exercise a

PART 4 – OFFICER SCHEME OF DELEGATION
SECTION 1 – GENERAL PRINCIPLES

delegated function but to refer the matter back to the Council, the appropriate Committee, the Cabinet or a Cabinet Member for decision.

- 2.9 Where a delegation requires the agreement of, or consultation with or other action by a Cabinet Member or Committee Chairman, such delegation shall allow for the substitution of another Member in the absence of the specified Member. In the case of a Cabinet Member this shall be the Leader or Deputy Leader. In the case of a Committee Chairman it shall mean the Vice-Chairman or in his/her absence, another member of the Committee.
- 2.10 An officer to whom authority is delegated shall have power to undertake all work to give full effect to any decision of the Council, its Committees, the Cabinet or a Cabinet Member.

3.0 DELEGATIONS TO OFFICERS

3.1 The functions or activities listed in Sections 2 and 3 of this Part of the Constitution and varied from time to time are delegated to the officers in the posts named in Sections 2 and 3.

3.2 **Limitations of delegations** - The powers delegated to officers under this scheme do not include any power to take a decision which is properly a matter for the Council, Cabinet, a Cabinet Member or a Committee or Sub-Committee. Officers are, in the context of this scheme, responsible for the management of their services, the provision of advice to the Council and Members, and the implementation of Council policies and decisions. A decision which an officer takes, under a delegation made by or under this scheme, must:

- implement a policy previously approved or decision previously taken by the Council, Cabinet, a Cabinet Member or a Committee or Sub-Committee; or
- facilitate, or be conducive or incidental to, the implementation of a policy or decision previously approved;
- be recorded in accordance with paragraphs 5.1 and 5.2 below

3.3 Any officer exercising powers or duties in pursuance of full sub- delegation will be politically restricted under section 2(1) (g) of the Local Government and Housing Act 1989.

4.0 FURTHER PROVISIONS

4.1 **Continuation of existing delegations** - A delegation to an officer which existed at the date of the introduction of this scheme shall, to any extent that it remains unaltered by (and is not inconsistent with) any delegation (or variation to a delegation) made by or under this scheme, shall continue to have effect.

4.2 **Deemed delegations** - Where in respect of a given function or activity, no delegation is in effect, and an officer has a management responsibility in relation to the exercise of that function or activity, the exercise of any delegated authority necessary to carry out the function or activity effectively

PART 4 – OFFICER SCHEME OF DELEGATION
SECTION 1 – GENERAL PRINCIPLES

shall be deemed to have been delegated to that post holder.

- 4.3 In this scheme, “officer” means the holder of any post to which a function or activity, or powers and duties in relation to such a function or activity, may be delegated.
- 4.4 Where a function or activity has been specifically delegated by or under this scheme to an officer, and where the officer to whom the delegation was made is absent or otherwise unavailable, that function or activity shall not be exercised by another officer without the consent of the Chief Executive.
- 4.5 An authority delegated to officers includes management of the human and material resources made available for the service/portfolio areas and any function concerned, within the limitations of this scheme, and subject to any specific delegations made by or in accordance with this scheme to another officer.
- 4.6 In each case, a delegated authority excludes any determination of policy, any exception to policy, or of any budget by the officer concerned.

5.0 RECORDS OF DECISIONS MADE BY OFFICERS WITH DELEGATED RESPONSIBILITIES

- 5.1 It is the responsibility of every officer exercising a delegated responsibility to maintain a paper or electronic record of all decisions made and actions decided upon for a period of six years or such other period as required by statute or regulation in a manner that meets the overall responsibility of the Council arising from that decision, including the needs of officers from all services who will action the decision as well as the officers who are responsible for the governance of the Council.
- 5.2 Where a decision delegated to an officer would otherwise have been taken by the Council, Cabinet, a Cabinet Member, a Committee, Sub-Committee or Joint Committee either:
- a) under a specific express authorisation; or
 - b) under a general authorisation to officers to take such decisions and, the effect of the decision is to -
 - grant a permission or licence;
 - affect the rights of an individual; or
 - award a contract or incur expenditure which, in either case, materially affects the Council’s financial position

The decision-making officer must produce and retain for a period of six years a written record of the decision as soon as practicable containing the following information:

- i. the date the decision was taken;
- ii. a record of the decision and the reasons for the decision;
- iii. details of alternative options, if any, considered and rejected; and

**PART 4 – OFFICER SCHEME OF DELEGATION
SECTION 1 – GENERAL PRINCIPLES**

- iv. where the decision falls under paragraph 5.2 a) above, the names of any member of the Council who has declared a conflict of interest in relation to the decision

6.0 WRITTEN RECORD OF THE DECISION

6.1 For decision made under Paragraph 5.2 above, the written record must, as soon as reasonably practicable after the decision is made, be available:

- a) For inspection at Council Officers during normal working hours; and
- b) To view online

7.0 PROPER OFFICERS

7.1 The Local Government Act 1972 introduced a requirement that the officer required to perform specified duties should be the "Proper Officer" appointed by the Council for that purpose. The Council has designated the under-mentioned officers in the following table as the 'Proper Officers' for the sections and schedules indicated.

Legislation Title (in alphabetical order)	Purpose	Proper Officer
Local Authorities (Referendums) (Petitions) (England) Regulations 2011	Petitions and Referendums	Chief Executive
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 Regulation 15	Access to Information	
Local Government Act 1972: •Schedule12 - para 4(2)(b)	Signing of Council summons to attend a meeting	
•Schedule14 para 25(7)	Certification of resolutions passed by the Council	Chief Executive and Directors
•S. 13(3)	Parish Trustee (In a parish not having a separate parish council)	

**PART 4 – OFFICER SCHEME OF DELEGATION
SECTION 1 – GENERAL PRINCIPLES**

Legislation Title (in alphabetical order)	Purpose	Proper Officer
•S. 83(1)	Declarations of acceptance of office	Chief Executive
•S. 84	Resignation of a Member from office	
•S. 88(2)	Convening of Council meeting for filling Chairman casual vacancy	
•S. 89(1)(b)	Notice of casual councillor vacancy	
•S. 100A – 100K	Access to Information	
•S. 115(2)	Payment of money due	Group Head of Corporate Support
•S. 146(1)(a)	Securities – statutory declaration	
•S. 146(1)(b)	Securities – certificate	
•S. 151	Financial administration	Director of Place
•S. 191	Ordnance Survey applications	
•S.s 210(6) and (7)	Charities	Group Head of Corporate Support
•S. 225(1)	Deposit of documents	Chief Executive
•S. 229(5)	Certification of photocopies (other than accounts)	Group Head of Council Advice & Monitoring Officer
•S.s 234(1) and (2)	Authentication of documents	Chief Executive, Directors and Group Heads
•S.s 236(9)	Distribution of Byelaws	Group Head of Corporate Support
•S. 238	Provide certified copies of Byelaws	
Local Government Finance Act 1988 – S.114	Proper administration of financial affairs	Group Head of Corporate Support
Local Government (Miscellaneous Provisions) Act 1976 – S.41	Evidence of resolutions and minutes of proceedings	Group Head of Corporate Support
Local Government Act 2000 – S.s 49 to 81 (insofar as the same are still in force)	Conduct of Members	Group Head of Council Advice & Monitoring Officer
Local Government & Housing Act 1989 – •S. 4	Head of the Paid Service	Chief Executive

**PART 4 – OFFICER SCHEME OF DELEGATION
SECTION 1 – GENERAL PRINCIPLES**

Legislation Title (in alphabetical order)	Purpose	Proper Officer
•S. 5	Monitoring Officer	Group Head of Council Advice & Monitoring Officer
Public Health (Control of Disease) 1984 •S. 1	Duty to execute this Act	The Council has appointed Public Health England to act as Proper Officer when dealing with these powers
•S. 61	Power to enter premises	
Neighbourhood Planning (Referendums) Regulations 2012	Counting Officer	Chief Executive
Representation of the People Act 1983: •S.8	Registration of Parliamentary and Local Government Electors – Electoral Registration Officer	Chief Executive
•S.28	Conduct of Parliamentary Elections – Discharge of Returning Officer’s functions	Chief Executive
•S.35	Returning Officer	Chief Executive
Electoral Administration Act 2006	Updated local government election rules	Chief Executive
Police Reform and Social Responsibility Act 2011	Police and Crime Commissioner Elections	Chief Executive
Planning (Listed Buildings and Conservation Areas) Act 1990 – S.2	Deposit of lists of buildings of special architectural or historic interest	Director of Place

7.2 In any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act, 1972 or in any instrument made before 26th October 1972, a reference to a specified officer of the Council shall be deemed to be a reference to the Director of the Department of the Council in which the function of the specified officer is now vested, or in appropriate cases to Public Health England.

7.3 Where written evidence of any such appointment as aforesaid is required, the Chief Executive or his/her nominated deputy shall issue it.

7.4 Officers responsible for the Governance of the Council are:

PART 4 – OFFICER SCHEME OF DELEGATION
SECTION 1 – GENERAL PRINCIPLES

- Finance – Group Head of Corporate Support
- Internal Audit - Chief Internal Auditor
- Scrutiny – Group Head of Policy
- Committee Services and Information Management – Group Head of Council Advice & Monitoring Officer