

BUCKINGHAMSHIRE COUNTY COUNCIL

SCHEME OF DELEGATION BY CHIEF EXECUTIVE TO OFFICERS OF COUNCIL FUNCTIONS AND LOCAL CHOICE FUNCTIONS WHICH ARE NOT THE RESPONSIBILITY OF THE EXECUTIVE.

Introduction

1 General Principles

- a This scheme is made by the Chief Executive. It delegates to officers the powers and duties of the Council which, by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 or any amendments to them (the “Regulations”), are not to be the responsibility of the Council’s Cabinet; together with those local choice functions which are not the responsibility of the Cabinet.
- b This Scheme is made, under section 101(1)(a) of the Local Government Act 1972. It is made in accordance with section 151 of that Act, 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.
- c This scheme does not delegate to officers:
 - (i) any matter reserved to full Council;
 - (ii) any matter which by law may not be delegated to an officer;
 - (iii) any matter expressly reserved to a committee by the Council’s Standing Orders or Financial Regulations, or withdrawn from delegation by this scheme or by a committee;
 - (iv) any power to change fees, charges or concession policies;
 - (v) any power to make a decision on permanent savings in a budget;
 - (vi) any power to make an order for the compulsory acquisition of land;
 - (vii) any power to acquire land in advance of requirements;
 - (viii) 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.
- d In respect of any matter falling within the parameters of this scheme, the Chief Executive may in writing make such detailed delegations to officers concerning functions and activities within

a given area of responsibility (“internal delegations”) as he considers appropriate.

- e The Chief Executive may, in writing, delegate any function of the Council (or local choice function not the responsibility of the Executive) which has been delegated to him/her, and which is not otherwise delegated under this Scheme, and he may vary in writing any delegation made under this scheme.
- f This scheme delegates powers and duties within broad functional descriptions. It includes powers and duties under all legislation, present and future, within those descriptions, and all powers and duties incidental to that legislation, as well as authorising the affixing of the Common Seal.
- g This scheme includes an obligation on officers to keep Members of the Council properly informed of activity arising within the scope of these delegations.

2 General Limitations

- a An officer, in exercising delegated powers, shall consult other appropriate officers and shall have regard to any advice received.
- b Any exercise of delegated powers shall be subject to any policy framework approved by the Council from time to time, 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 from time to time by the authority (including any Code or protocol which has been included within the authority’s constitution) and the Corporate Plan.
- c Any exercise of delegated powers shall be subject to:
 - any statutory restrictions
 - the Council’s Standing Orders
 - the Financial Regulations
 - the Contracts Standing Orders
 - the provisions generally of Part 4 of the Constitution
- d 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 Financial Regulations or the Contracts Standing Orders.

3 Further provisions

Individual Delegations

- a An officer to whom a delegation has been made by, or in accordance with, this scheme may (subject to the terms of any applicable internal delegation) further delegate in writing all or any of their delegated functions to another officer (described by name and post), either fully or under the general supervision and control of the delegating officer. Delegations made under this sub-paragraph (“individual delegations”) may be made across service boundaries.

Register of Internal and Individual Delegations

- b Subject to paragraph 3c below, all internal delegations made under paragraph 1d above, and individual delegations made under paragraph 3a above, shall be recorded in a register kept by the Head of Legal and Democratic Services in accordance with section 100G of the Local Government Act 1972. (See also paragraph 3e below).

Continuation of existing delegations

- c 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.

Deemed delegations

- d 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 shall be deemed to have been delegated to that postholder.

Other provisions

- e All action taken under the terms of these delegations (and not falling within the description of an internal delegation in paragraph 1d above, or an individual delegation in paragraph 3a above) shall be properly documented in accordance with arrangements approved by the Head of Legal and Democratic Services.
- f It shall always be open to a senior officer to consult the appropriate Chairman of a Committee, or other appropriate

Member, on the exercise of a delegated function; or, not to exercise a delegated function but to refer the matter back to a sub-committee (or other Member grouping), Committee or the Council.

- g 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.
- h Where a function or activity has been specifically delegated by or under this scheme to an officer, that function or activity shall not be exercised by another officer without the consent of the former, other than in circumstances of the death or incapacity of that officer or, in an emergency, where the officer to whom the delegation was made is absent or otherwise unavailable.
- i An authority delegated to officers includes management of the human and material resources made available for the service/portfolio areas and any function concerned; to the extent of that authority, within the limitations of this scheme, and subject to any specific delegations made by or in accordance with this scheme to another officer.
- j In each case, a delegated authority excludes any determination of policy, any exception to policy, or of any budget by the officer concerned.

4 Delegations to officers

- a The functions or activities listed in the Annex to this Scheme and varied from time to time, are hereby delegated to the officers in the posts named in the Annex.

Limitation of delegations

- b 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, 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, or a committee or sub-committee (or by or with the Executive); or
 - facilitate, or be conducive or incidental to, the implementation of a policy or decision previously approved, or decision

- relate to the management of the human, material or financial resources made available for the functions for which the Council is responsible

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.

Annex

Delegations to Officers

The following functions or activities are delegated by the Chief Executive to the following officers:

NB: References below to “the Regulations” are to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (SI 2000 No. 2853).

SERVICE DIRECTOR: PLACE

- 1 To exercise the functions of the Council relating to highways and public rights of way that are specified in the following provisions of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (“the regulations”): paragraphs 41, 46A and 47-55 of Schedule 1B (Licensing and Registration Functions) in so far as they relate to highways that are public rights of way (the latter term with the meaning used in the regulations); and paragraphs 1-34 of Schedule 1I (Miscellaneous Functions), **except** for the following paragraphs: 2;5;7;9;11;12;23;24;25;and 30
- 2 To exercise the functions of the Council in relation to common land, and town and village greens, as specified in paragraphs 51-53 of Part Two of Schedule 1I (Other Miscellaneous Functions) of the Regulations
- 3 To exercise all the functions of the Council relating to town and country planning and development control specified in paragraphs 5-23 of Schedule 1A (Functions relating to town and country planning and development control) of the Regulations, **except** for the following:
 - (i) determination of planning applications, or proposals in accordance with the development plans, where objections or contrary observations are raised by other local authorities (including parish councils or parish meetings), statutory consultees, persons adversely affected by the proposals (provided that the objection or observation is on planning grounds and the objection or observation has not been previously considered and discounted by the authority), or an appropriate local Member;
 - (ii) determination of minerals and waste applications requiring Environmental Impact Assessments;
 - (iii) determination of applications for County Council development where objections are raised to the proposals;
 - (iv) approval of major departures from development plans arising from planning applications and proposals.

- 4 To exercise the functions of the Council in relation to the making of agreements for the execution of highways works under S278 of the Highways Act 1980
- 5 To exercise the functions of the Council relating to highways that are specified in the following provisions of the Regulations: Paragraphs 41, 46A and 47-55 of Schedule 1B (Licensing and Registration Functions)
- 6 To exercise the Council's statutory function of Traffic Manager in accordance with the Traffic Management Act 2004

HEAD OF FINANCE

- 1 To exercise the proper administration of the Council's financial affairs under section 151 of the Local Government Act 1972 and
- 2 To be the chief finance officer for the purposes of section 114 of the Local Government Finance Act 1988.
- 2 To be the Proper Officer under section 115 of the Local Government Act 1972
- 3 To manage the Pension Fund, including the power to seek professional advice and to devolve day-to-day handling of the Fund to professional advisers within the scope of the Pensions Regulations.

(Note: The Head of Finance is not empowered to change the managers of the Pension Fund).

HEAD OF LEGAL AND DEMOCRATIC SERVICES

- 1 To be the Monitoring Officer
- 2 To act as the Solicitor to the Council
- 3 To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal, including planning enforcement, any proceedings in relation to anti-social behaviour (so far as relevant), or the making or defending of appeals; or to take any other appropriate steps in, or in relation to, any claim or legal proceedings.
- 4 To authorise employees of the Council to appear before Magistrates' Courts or District Judges.
- 5 To be the Proper Officer of the Council, except where legislation or the Scheme of Delegation names another postholder, and to authorise the making and issue of any formal documents.

- 6 To authorise the giving of any indemnity by the Council
- 7 To authorise the service of notices to ascertain interests in land or particulars of persons interested in land; or to enter or authorise entry upon land, in connection with the discharge of any of the functions of the Council.
- 8 After consultation with the Chairman of the Council, to authorise the reproduction of the County Coat of Arms or the flying of the County flag by other bodies or persons.
- 9 To authenticate documents on behalf of the Council.
- 10 To determine which documents should be sealed by the affixing of the Common Seal.
- 11 To attest the affixing of the Council's Common Seal.
- 12 To be responsible for:
 - the making of arrangements in relation to appeals against the exclusion of pupils from maintained schools
 - the making of arrangements pursuant to sections 94(1), 94(1A) and 94(4) of the School Standards and Frameworks Act 1998 (admission appeals)
 - the making of arrangements pursuant to section 95(2) of the School Standards and Frameworks Act 1998 (appeals relating to children to whom section 87 applies)
- 13 To act as the administering authority for the purposes of the pensions complaints procedure.

CORPORATE DIRECTOR, ORGANISATIONAL DEVELOPMENT AND HUMAN RESOURCES

- 1 To exercise the functions of the Council in relation to pensions as specified in Schedule 1H (Functions relating to pensions etc) of the Regulations.

(Note: This delegation excludes management of the Pension Fund, which is the responsibility of the Head of Finance).

- 2 Subject to the agreement of the Chief Executive in any case involving a Strategic Director, the Head of Legal and Democratic Services or the Head of Finance, to exercise discretion under the Local Government pensions regulations, the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales)

Regulations 2000, the Teachers pension regulations, or subsequent or amending provisions concerning any of those matters.

HEAD OF TRADING STANDARDS AND REGULATORY SERVICES

- 1 To exercise the licensing and registration functions of the Council as specified in paragraphs 22, 26- 27, 31, 43-46, and 56 of Schedule 1B (Licensing and Registration Functions) of the Regulations.¹
- 2 To exercise the functions of the Council in relation to the approval of premises for the solemnisation of marriages, as specified in paragraph 36 of Schedule 1B (Licensing and Registration Functions) of the Regulations.

¹ Note to Instructing Solicitor. This paragraph should be checked with Trading Standards, cross-referenced with the Regulations, to establish which delegations are appropriate from those listed. Paragraphs 24, 57-63, and 67-71 of Schedule 1B may also be relevant. Paragraph 42 of Schedule 1B, which has been omitted from the above list, refers to the Nurses Agencies Act 1957. This was repealed with effect from 1st April 2003.