

PART 3.4 - DELEGATIONS TO OFFICERS

STATUTORY OFFICERS AND PROPER OFFICERS

FULL COUNCIL HAS MADE OR APPROVED THE APPOINTMENTS SET OUT BELOW

Title / Responsibility (+ statutory derivation)	Officer Appointed
Director of Children's Services (S18 Children Act 2004)	Executive Director Children and Education
Director of Adult Social Services (S6 Local Authority Social Services Act 1970)	Director, Adult Social Care
Director of Public Health (Health and Social Care Act 2012)	Director, Communities and Public Health
Officer Responsible for Financial Administration (S151 Local Government Act 1972)	Director of Finance
Head of Paid Service (S4 Local Government and Housing Act 1989)	Head of Paid Service
Monitoring Officer (S5 Local Government and Housing Act 1989)	Director, Legal and Democratic Services
Electoral Registration Officer (S8, (2A) Representation of the People Act 1983)	Director, Legal and Democratic Services
Returning Officer (S35 (1A) Representation of the People Act 1983)	Director, Legal and Democratic Services
Statutory Scrutiny Officer	Head of Democratic Engagement

Legislation		Responsibility	Proper Officer
Local Government Act 1972	Section 46	Transfer of securities	Director Finance
Local Government Act 1972	Section 83 (1) to (4)	Witnessing and receiving declarations of acceptance of office	Director Legal and Democratic Services
Local Government Act 1972	Section 84(1)	Receiving a councillor's resignation	Director Legal and Democratic Services
Local Government Act 1972	Section 88 (2)	Calling a full council meeting to elect a chair if there is a casual vacancy	Director Legal and Democratic Services
Local Government Act 1972	Section 89 (1)	Giving notice of a casual vacancy	Director Legal and Democratic Services
Local Government Act 1972	Section 100 except 100 (d)	Opening meetings to the public	Director Legal and Democratic Services
Local Government Act 1972	Section 100 (d)	Listing background papers for reports and making copies available for the public to look at	Director Legal and Democratic Services
Local Government Act 1972	Section 115 (2)	Receiving money due from officers	Director Finance
Local Government Act 1972	Section 146 (1)(a) & (b)	Making declarations and certificates about transferring securities	Director Finance
Local Government Act 1972	Section 191	Receiving applications under Section 1 of the Ordnance Survey Act 1841	Director Legal and Democratic Services
Local Government Act 1972	Section 225	Depositing documents	Director Legal and Democratic Services
Local Government Act 1972	Section 228 (3)	Making accounts available for councillors to look at	Director Finance
Local Government Act 1972	Section 229 (5)	Certifying photocopies of documents	Director Legal and Democratic Services
Local Government Act 1972	Section 234	Authenticating documents	Director Legal and Democratic Services
Local Government Act 1972	Section 238	Certifying byelaws	Director Legal and Democratic Services
Local Government Act 1972	Section 248	Keeping a list of freemen of the city	Director Legal and Democratic Services

Legislation		Responsibility	Proper Officer
Local Government Act 1972	Section 228	Accounts to be opened for inspection	Director Finance
Local Government Act 1972	Part V (a)	Access to reports, etc	Director Legal and Democratic Services
Local Government Act 1972	Section 96(1) & (2)	Notice of pecuniary interests	Director Legal and Democratic Services
Local Government Act 1972	Sections 100 B (2) & (7)	Circulation of reports and agendas and supply of papers to the press	Director Legal and Democratic Services
Local Government Act 1972	Section 100 D (1) (a)	Background papers	Director Legal and Democratic Services
Local Government Act 1972	Section 210 (6) & (7)	Exercise of residual charity functions	Director Finance
Local Government Act 1972	Section 100 C	Summaries of minutes	Director Legal and Democratic Services
Local Government Act 1972	Schedule 12, Para 4 (2) (b)	Signing the summons to full council	Director Legal and Democratic Services
Local Government Act 1972	Schedule 12 Para 4(3)	Being told where to send summonses to full council meetings	Director Legal and Democratic Services
Local Government Act 1972	Schedule 14 Para 25	Certifying resolutions passed under this paragraph	Director Legal and Democratic Services
Local Government Act 1974	Section 30 (5)	Giving notice that copies of an ombudsman's report are available	Individual appointed by Chief Executive
Local Government (Miscellaneous Provisions) Act 1976	Section 41 (1)	Certifying copies of resolutions and minutes	Director Legal and Democratic Services
Local Authorities Cemeteries Order 1977	Regulation 10	Signing exclusive burial rights	Individual appointed by Executive Director Growth and Regeneration
Representation of the People Act 1983	Section 67	Receiving declarations of election candidature	Director Legal and Democratic Services
Representation of the People Act 1983	Section 82 and 89	Receiving election expense declarations and returns and holding them for the public to look at	Director Legal and Democratic Services

Legislation		Responsibility	Proper Officer
Local Elections (Principal Area) Rules 1986	Rule 46	Keeping documents after an election and making them available for the public to look at	Director Legal and Democratic Services
Local Government and Housing Act 1989	Section 2 (4)	Keeping the list of politically restricted posts	Director Legal and Democratic Services
Local Government (Committees and Political Groups) Regulations 1990	Regulation 14	Notification of allocated or vacated seat	Director Legal and Democratic Services
Local Authorities (Standing Orders) (England) Regulations 2001		Giving notice of appointments and dismissals at chief or deputy chief officer level	Head of Paid Service
Local Government Act 2000		Acting as proper officer for all responsibilities in the Local Government Act 2000 and subordinate legislation	Director Legal and Democratic Services
Public Health Act 1936	Section 85 (2)	Serving a notice requiring action to deal with verminous people or things	Director of Public Health
Public Health Act 1961	Section 37	Controlling verminous things	Director of Public Health
Public Health (Control of Disease) Act 1984	Section 11	Being told about cases of notifiable disease or food poisoning	Director Management of Place
Public Health (Control of Disease) Act 1984	Section 18	Getting information about cases of notifiable disease or food poisoning	Director Management of Place
Public Health (Control of Disease) Act 1984	Section 20	Stopping of work to prevent disease spreading	Director Management of Place
Public Health (Control of Disease) Act 1984	Section 21	Excluding children from school if they are likely to carry a notifiable disease	Director Management of Place

Legislation		Responsibility	Proper Officer
Public Health (Control of Disease) Act 1984	Section 22	Asking for the names and addresses of pupils at a school or department of a school	Director Management of Place
Public Health (Control of Disease) Act 1984	Section 31	Certifying the need to disinfect premises	Director Management of Place
Public Health (Control of Disease) Act 1984	Section 32	Certifying the need to remove someone from an infected house	Director Management of Place
Public Health (Control of Disease) Act 1984	Section 36	Issuing certificates to get an order to examine people believed to be carrying notifiable diseases	Director Management of Place
Public Health (Control of Disease) Act 1984	Section 40	Getting a warrant to examine residents of a common lodging house	Director Management of Place
Public Health (Control of Disease) Act 1984	Section 42	Certifying a common lodging house to be free from infection	Director Management of Place
Public Health (Control of Disease) Act 1984	Section 43	Certifying that the body of someone who dies in hospital from a notifiable disease must not be moved except to be taken to a mortuary or immediately buried or cremated	Director Management of Place
Public Health (Control of Disease) Act 1984	Section 48	Certifying that it would be a health risk to keep a body in a building	Director Management of Place.
Public Health (Control of Disease) Act 1984	Section 59	Authenticating documents about things they are responsible for	Director Management of Place
Public Health (Infectious Diseases) Regulations 1988	Regulations 6, 8, 10 & 12	Reporting of infectious diseases; arrangements for vaccination/immunisation; divulging of confidential documents relating to infectious diseases	Director Management of Place

Legislation		Responsibility	Proper Officer
Public Health (Aircraft) Regulations 1979 and Public Health (Ships) Regulations 1979		Functions of the “Medical Officer”	Director Management of Place
National Assistance Act 1948	Section 47	Taking people in need of care and attention to a suitable place	Director Legal and Democratic Services
National Assistance (Amendment) Act 1951	Section 1	Certifying the need for immediate action	Director Legal and Democratic Services
Money Laundering Regulations 2003	Regulation 7	Being told about suspected money laundering	Director Legal and Democratic Services
Housing Act 2004	Section 4	Complaint as to condition of residential premises	Individual appointed by Executive Director Growth and Regeneration
Food Safety Act 1990	Section 49(3)(a)	Authentication of documents, etc.	Individual appointed by Executive Director Growth and Regeneration
Building Act 1984	Section 93	Authentication of documents, etc	Individual appointed by Executive Director Growth and Regeneration
Building Act 1984	Section 78	Functions of the “surveyor”	Individual appointed by Executive Director Growth and Regeneration
Marriage Act 1949		Proper Officer for registrations	Director Legal and Democratic Services
Births and Deaths Registration Act 1953		Proper Officer for registrations	Director Legal and Democratic Services
Regulation of Investigatory Powers Act 2000		Designated person for authorising the acquisition of communications data	Licensing and Trading Standards Manager
Any legislation past or made before or during 1972		Any functions of “the Clerk of the Council” or the “Town Clerk” which is to be construed as a reference to the Proper Officer of the Council.	Director Legal and Democratic Services

Legislation		Responsibility	Proper Officer
Any legislation past or made before or during 1972		Any function of the "Treasurer"	Director Finance
General Data Protection Regulation		Statutory Data Protection Officer	Head of Information Assurance
Traffic Management Act 2004	Section 17(2)	Traffic Manager	Head of Traffic and Highways Maintenance
Regulatory Reform (Fire Safety) Order 2005		The 'responsible person' for ensuring that the council's premises comply with the duties imposed by the Order.	Chief Executive

C. DELEGATION OF FUNCTIONS TO OFFICERS

Any of the functions below may be exercised by the Head of Paid Service notwithstanding its delegation to another Executive Director.

C.1 Human Resources Functions

The power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal (section 112 of the Local Government Act 1972) is delegated to the Head of Paid Service who, in accordance with “General Principles applying to the exercise of delegated powers by officers” set out in part 3 of the Constitution may arrange for the discharge of these functions through Executive Directors. All officers exercising HR functions must do so in accordance with the Council’s HR policies and any advice provided by the Director Workforce and Change

C.2 Licensing Functions

All those functions set out in the terms of reference of the Licensing Committee which full council has arranged for that committee to discharge are the responsibility of the Executive Director Growth and Regeneration except for the power to institute proceedings (s. 346 Gambling Act 2005) which is the responsibility of the Director Legal and Democratic Services.

C.3 Planning and Development Control Functions

All the functions set out in the terms of reference of the Development Control Committees are delegated to the Executive Director Growth and Regeneration except for the determination of any application where a member of the council for a ward containing the site of the application requests the matter be determined by a Development Control Committee (such request to be made on the appropriate referral form to one of the Development Management Managers within the published consultation period for the application, specifying the planning grounds on which the request is made).

C.4 Public Safety & Protection Functions

All functions set out in the Public Safety & Protection Committee terms of reference are delegated to the Executive Director Growth and Regeneration.

C.5 Public Rights of Way & Greens Functions

- (a) All the functions set out in List A of the Public Rights of Way & Greens Committee are delegated to the Chief Executive.
- (b) All the functions set out in List B of the Public Rights of Way & Greens Committee are delegated to the Executive Director Growth and Regeneration.

C.6 Miscellaneous Functions Delegated to the Chief Executive

Marriages and Registration

- (a) Power to approve premises for the solemnisation of marriages (S.46A of the Marriage Act 1949 (c.76) & the Marriages (Approved Premises) Regs 1995 (S.I. 1995/510).

Elections

- (b) Power to assign officers in relation to requisitions of the registration officer (section 52(4) of the Representation of the People Act 1983).
- (c) Duty to divide constituency into polling districts (Sections 18A and 18E of Schedule A1 to the Representation of the People Act 1983).
- (d) Power to divide electoral divisions into polling districts at local government elections (Section 31 of the Representation of the People Act).
- (e) Power in respect of holding of elections (Section 39(4) of the Representation of People Act 1983).
- (f) Power to pay expenses properly incurred by electoral registration officers (Section 54 of the Representation of the People Act 1983).
- (g) Power to fill vacancies in the event of insufficient nominations (Section 21 of the Representation of the People Act 1985).
- (h) Duty to declare vacancy in office in certain cases (Section 86 of the Local Government Act 1972).
- (i) Duty to give public notice of a casual vacancy (Section 87 of the Local Government Act 1972).
- (j) Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of People Act 2000 (Section 10 of the Representation of the People Act 2000).
- (k) Duty to consult on change of scheme for elections (Sections 33(2), 38(2) and 40(2) of the Local Government and Public Involvement in Health Act ("the 2007 Act")).
- (l) Duties relating to publicity (Sections 35, 41 and 52 of the 2007 Act).
- (m) Duties relating to notice to Electoral Commission (Sections 36 and 42 of the 2007 Act).
- (n) Power to alter years of ordinary elections of parish councillors (Section 53 of the 2007 Act).

- (o) Functions relating to change of name of electoral area (serving notice) (Section 59 of the 2007 Act).

Pensions and Finance

- (p) Functions relating to local government pensions etc. (Regulations under section 7, 12 or 24 of the Superannuation Act 1972).
- (q) Functions under the Fireman's Pension Scheme relating to pensions, etc., as respects persons employed by the fire and rescue authorities pursuant to Section 1 of the Fire and Rescue Services Act 2004 (Sections 34 and 36 of the Fire and Rescue Services Act 1972).
- (r) Duty to make arrangements for proper administration of financial affairs etc. (Section 151 of the Local Government Act 1972).

C.7 Employment of Children Functions

The power to license the employment of children is delegated to the Executive Director Children and Education (Part II Children and Young Persons Act 1933, byelaws made under that Part and Part II Children and Young Persons Act 1963).

C.8 Other functions delegated to all Executive Directors

- (a) Power to enforce byelaws (any provision of any enactment (including a local Act), whenever passed and section 14 of the Interpretation Act 1978).
- (b) Power to make payments or provide other benefits in cases of maladministration (Section 92 Local Government 2000) in respect of functional areas administered within the particular department.

C.9 Appointment of proper officers

Power to appoint officers for particular purposes is delegated to the Head of Paid Service, following consultation with the Director Legal and Democratic Services unless legislation indicates the appointment is made by full council or an Executive Director (appointment of "proper officers") (section 270 (3) of the Local Government Act 1972).

C.10 Children and Education Directorate Functions

Any function of a Committee falling within the portfolio of the **Children and Education Directorate** including functions relating to:

- (a) Children and Families Services;
- (b) Educational Improvement;

shall be executed by the Executive Director – Children and Education notwithstanding its onward delegation in the officer schemes of delegation.

C.11 Adult and Communities Directorate Functions

Any function of a Committee falling within the portfolio of the **Adult and Communities Directorate** including functions relating to:

- (a) Adult Social Care;
- (b) Public Health;

shall be executed by the Executive Director – Adults and Communities notwithstanding its onward delegation in the officer schemes of delegation.

C.12 Resources Directorate Functions

Any function of a Committee falling within the portfolio of the Resources **Directorate** including functions relating to:

- (a) Finance management;
- (b) Workforce and Change;
- (c) Legal and Democratic Services;
- (d) Digital Transformation;
- (e) Policy, Strategy and Partnerships;
- (f) Commercialisation;

shall be executed by the Chief Executive notwithstanding its onward delegation in the officer schemes of delegation.

C.13 Growth and Regeneration Directorate Functions

Any function of a Committee falling within the portfolio of the **Growth and Regeneration Directorate** including functions relating to:

- (a) Development of Place;
- (b) Economy of Place;
- (c) Management of Place;
- (d) Housing and Landlord Services;

shall be executed by the Executive Director – Growth and Regeneration notwithstanding its onward delegation in the officer schemes of delegation.

C.14 Delegation of functions to other officers

Each delegated officer shall be entitled to discharge functions allocated to the department described in paragraphs C.10 to C.13 above for which they are the delegated officer, subject to the general provisions governing delegations contained in C.15 below:

- (a) The officer occupying the post of Director: Legal and Democratic Services (and members of the team under their direction) is authorised to do all things necessary to perform legal services in connection with the discharge of functions delegated under this section of the constitution. For the avoidance of doubt the conferring of the function on the officer occupying the post of Director: Legal and Democratic Services is not to intend or remove the power of any authorised officer engaged in

investigation to obtain or seek from a Justice of the Peace, or the court, a warrant of entry, Order under RIPA 2000 or other process ancillary to the investigation they are engaged in.

- (b) The officer designated as the Chief Finance Officer (and the team under their direction) is authorised to do all things necessary in the performance of financial services and insurance arrangements in connection with the discharge of functions delegated under this section of the constitution.
- (c) In addition to any other delegation to an officer contained in this section of the constitution, each council officer may discharge any function as necessary for them to perform such of the duties as are set out in their job description as they are required to undertake by the officer or officers responsible for their management and subject to the general provisions governing delegations contained in section 7 below.
- (d) The officers specified in this paragraph may institute criminal proceedings at designated police stations by requesting the custody officer to charge a suspect on the council's behalf, but only:
 - (i) in connection with offences the council has power to enforce; and
 - (ii) following consultation with the Director: Legal and Democratic Services or an appropriate member of their team, except when the officer is acting outside of normal council business hours.

The following officers in the trading standards team are so authorised: trading standards manager or acting manager; enforcement officer; accredited financial investigator; trading standards officer.

The following officers in the South West illegal money lending/scam-buster team are so authorised: South West regional enforcement manager or acting manager; senior investigator; investigator.

C.15 General provisions governing delegations to area committees, officers and members

- (a) The conferring of a delegated power is not intended to and does not in fact supersede or replace any statutory requirement or override any provision of the city council's articles, procurement regulations, financial regulations and any other provision of the constitution.
- (b) Accordingly decision makers acting under delegated powers must do so in accordance with any such provision and having due regard to any relevant council policy or Government guidance.
- (c) Reference to any act, order or regulation etc. is deemed to be a reference to any modification or re-enactment thereof.
- (d) Where there is a clear and pressing need for a key decision to be taken and it is not reasonably practicable, for any reason, for that decision to be taken by a relevant Committee then each Executive Director shall have authority to take key decisions within their directorate in conjunction with the Chief Executive. Before exercising such exceptional authority, the Executive Director must, so far as is practicable, consult with the Monitoring Officer, the Chief Finance Officer and the relevant Committee Chair. Any decision taken under this exemption will be reported to all members immediately and be subject of a formal report to the next relevant

Committee meeting.

- (e) It is recognised that delegated officers cannot personally undertake the discharge of every function conferred upon them. Delegated officers are accordingly entitled to arrange for the discharge by their subordinate officers of functions allocated to them provided that the delegated officer remains responsible for and accountable to the council for the exercise of their delegated powers and puts in place such measures as the delegated officer considers appropriate to ensure that those officers assisting him / her in the discharge of functions do so in accordance with the provisions of this constitution and do not exceed the limits of any authorisation made to them by the delegated officer to assist them in this task.
- (f) For the avoidance of doubt, any reference in this part to the discharge of any functions includes a reference to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of those functions.
- (g) If any delegated officer receives any statutory notice which if contravened would give rise to a risk of prosecution, they shall immediately refer it to the Director: Legal and Democratic Services, who shall be entitled to call for a report on the matter to himself and as necessary, to a relevant Committee or Full Council.
- (h) For the avoidance of doubt, an officer seized of the power to make a decision, may, where they consider it necessary in the particular circumstances, refer the matter for decision by the relevant Committee Chair;
- (i) All delegated officers should seek and obtain appropriate professional advice from those employed or otherwise engaged by the city council for that purpose in connection with the matter under consideration. Any report made by officers to a Committee should state whether or not such advice has been obtained.
- (j) All decisions taken by CIL/s.106 committees and officers must be consistent with the council's budget and policy framework and in accordance with any policy, plan or criteria adopted by the the Council.

D. General principles applying to the exercise of delegated powers by officers

- (a) Delegated officers must refer matters to the relevant committee as they consider appropriate having regard to the following factors:-
- i) whether the matter would have such an effect on communities, businesses or individuals such as the matter ought to be considered/determined by Councillors;
 - ii) whether a Councillor, applicant or other person with a significant interest has requested that the matter be determined by committee;
 - iii) whether there is evidence that the public or Councillors have a significant actual or potential interest in the matter such as would give rise to a desire or expectation that it be determined by Councillors;
 - iv) whether the matter is likely to involve consideration of disputed or uncertain matters of fact or law or whether the decision gives rise to a fine balance between various options such as might reasonably give rise to an expectation that the matter will be considered by Councillors;
 - v) where it is desirable that representations made in relation to the matter by an applicant, objector or other interested party should be heard and considered by Councillors;
 - vi) the need for consistency of approach in the council's decision-making process;
 - vii) whether there are any specific national or local policy or (in relation to development control decisions only) development plan implications arising from the matter under consideration which are of such significance that they might reasonably give rise to an expectation that they ought to be considered by Councillors;
 - viii) whether the legal consequences of the matter are of such significance that they should be considered by Councillors.
- (b) Delegated officers are entitled to arrange for the discharge of functions allocated to them by their subordinate officers, provided that the delegated officer remains responsible for and accountable to the council for the exercise of the delegated powers.
- (c) The Full Council have conferred delegated powers upon all of its officers to undertake, under management supervision, the tasks contained in their job description.
- (d) An officer with the delegated power to make a decision may, where they consider it necessary, refer the matter for decision by Full Council or by the relevant committee.
- (e) A committee may delegate to sub-committees and officers.

- (f) All delegated officers and delegated committees should seek and obtain appropriate professional advice from those employed by the council for that purpose. Any report made by officers to Councillors should record whether or not such advice has been obtained.
- (g) Committees and/or directors exercising the power to levy and/or determine fees or charges must not make a decision unless there has been prior consultation with the relevant policy committee chair. Where the decision is being made by a delegated officer, they must also consult with the chair of any relevant committee. Where the proposal is not in accordance with the corporate charging policy or is the subject of an objection by one or more of those Councillors with whom the officer/committee is required to consult as above, then the matter should be reported to the relevant committee or Full Council.