

C. DELEGATION OF NON-EXECUTIVE FUNCTIONS TO OFFICERS

Any non-executive function 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 Service Director Legal.

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 Directors of 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 provide assistance at the European Parliamentary Elections (Section 6(7) and (8) of the European Parliamentary Elections Act 2002).
- (d) Duty to divide constituency into polling districts (Sections 18A and 18E of Schedule A1 to the Representation of the People Act 1983).
- (e) Power to divide electoral divisions into polling districts at local government elections (Section 31 of the Representation of the People Act).
- (f) Power in respect of holding of elections (Section 39(4) of the Representation of People Act 1983).
- (g) Power to pay expenses properly incurred by electoral registration officers (Section 54 of the Representation of the People Act 1983).
- (h) Power to fill vacancies in the event of insufficient nominations

(Section 21 of the Representation of the People Act 1985).

- (i) Duty to declare vacancy in office in certain cases (Section 86 of the Local Government Act 1972).
- (j) Duty to give public notice of a casual vacancy (Section 87 of the Local Government Act 1972).
- (k) 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).
- (l) 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")).
- (m) Duties relating to publicity (Sections 35, 41 and 52 of the 2007 Act).
- (n) Duties relating to notice to Electoral Commission (Sections 36 and 42 of the 2007 Act).
- (o) Power to alter years of ordinary elections of parish councillors (Section 53 of the 2007 Act).
- (p) Functions relating to change of name of electoral area (serving notice) (Section 59 of the 2007 Act).

Pensions and Finance

- (q) Functions relating to local government pensions etc. (Regulations under section 7, 12 or 24 of the Superannuation Act 1972).
- (r) 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).
- (s) Duty to make arrangements for proper administration of financial affairs etc. (Section 151 of the Local Government Act 1972).

- (t) Repealed
- (v) Repealed
- (x) Repealed

C.7 Employment of Children Functions

The power to license the employment of children is delegated to the Executive Director Adults, 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 Service Director Legal 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).

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 of such significance that it 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 he/she considered it necessary, refer the matter for decision by Full Council or by the relevant committee.
- (e) A non-executive 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 executive member and scrutiny chair. Where the decision is being made by delegated officer, he/she 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.